

BOARD OF ZONING APPEAL FOR THE  
CITY OF CAMBRIDGE

GENERAL HEARING

June 11, 2009

7:00 p.m.

in

Senior Center 806 Massachusetts Avenue  
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Tim Hughes, Vice Chair

Brendan Sullivan, Member

Douglas M. Myers, Member

Tad Heuer, Member

Sean O'Grady, Zoning Specialist

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## P R O C E E D I N G S

(7:00 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chairman will call the meeting of the Zoning Board of Appeals to order. And as is our custom, we're going to start with the continued cases.

The first continued case is case No. 9785, 132 Antrim Street, apartment 2.

Is there anyone here who wishes to be heard on that matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair sees no one. The Chair is in possession of a letter addressed to the Board of Zoning Appeals dated June 8th from the petitioner. The letter states: I am filing a revised plan for the second floor deck of my home. The plan is consistent

with the suggestions made at the hearing on May 14th by several members and representatives about half the area of the deck as originally proposed. Upon reflection I wish that I had accepted the suggestions of the Board at that time to modify the deck. It would in all likelihood have avoided the necessity of a second hearing. I regret that I will not be able to attend the hearing on June 11th but I've been called to France to assist my father who is in poor health. My wife, Katharina Von Hammerstein will attend the hearing on my behalf. I only wish that she had attended the original hearing with me because her insight would have persuaded me to modify the plans in the matter that had been suggested and is now reflected in my modified submission. Thank you for your patience, guidance and understanding in this process.

SEAN O'GRADY: There should be an

e-mail to me from Katharina.

CONSTANTINE ALEXANDER: Next in the file -- thank you, Sean -- is an e-mail sent to Mr. O'Grady from Katharina Von Hammerstein. "Dear Mr. O'Grady -- and it's dated June 10th, yesterday -- "I request that my case pertaining to 132 Antrim Street, Unit 2, Cambridge, Mass, owned together with my husband Jacques Govignon be continued to the next available hearing of the Zoning Board. Kindly confirm that you received my request. Thank you."

The Chair would note for the record that this is a continued case. So from the petitioner's point of view it's a very desirable that all five of us be able to sit on the continued case.

So, what's the next available date and what's the next available date for the five members of the Board? Are all five members here the five?

TIM HUGHES: No, it's not me.

SEAN O'GRADY: It's Tom Scott.

TIM HUGHES: Tom Scott.

SEAN O'GRADY: Doug's booked until the fall, the first fall is September.

DOUGLAS MYERS: Except, Sean, for June 25th if that's possible.

SEAN O'GRADY: Except June 25th.

DOUGLAS MYERS: I'm free for the 25th and then basically unavailable until after Labor Day.

SEAN O'GRADY: Well, the book -- June 25th's continuums are booked up, but there's -- our regular cases are not. It closed without actually getting any cases.

CONSTANTINE ALEXANDER: Any idea what Tom's schedule is?

SEAN O'GRADY: I have none. No idea. Can everybody else do the 25th?

CONSTANTINE ALEXANDER: I can do the 25th.

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: We'll do the 25th and if there's a problem with Tom, we can continue again. Or the petitioner has a right to go forward with the four members. The 25th is okay?

DOUGLAS MYERS: 25th, that's fine.

CONSTANTINE ALEXANDER: The Chair moves that the case be continued to June 25th at seven p.m. on the condition that the petitioner be instructed to change the sign on the premises to reflect the new date.

The Chair further notes that there is a waiver of notice of the decision already in the file.

All those of favor of continuing the case, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is continued.  
(Alexander, Hughes, Sullivan, Myers, Heuer.)

(Whereupon, a discussion was  
held off the record.)

(7:05 p.m.)

(Sitting members: Constantine Alexander,  
Tim Hughes, Brendan Sullivan, Tad Heuer,  
Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair  
calls case No. 9729, 12 Mount Vernon  
Street.

Is there anyone here on that matter.

MARIA MING: Right here. But I  
have case 703. Is that the same number?

CONSTANTINE ALEXANDER: The one I  
have in front of me according to the --

MARIA MING: For some reason I  
copied it right from the notice today.

SEAN O'GRADY: No, that's an  
ancient case from years ago.

MARIA MING: Okay.



CONSTANTINE ALEXANDER: Okay, if you wish to come forward, please.

MARIA MING: Sure.

CONSTANTINE ALEXANDER: And for the record, I think you've done this before, but state your name and address, please.

MARIA MING: Maria Ming, 12 Mount Vernon Street, Cambridge.

CONSTANTINE ALEXANDER: And Ms. Ming, let me put a framework to this --

MARIA MING: All right.

CONSTANTINE ALEXANDER: -- matter. You're looking for a variance to put in a second kitchen which the Zoning Department has determined to create a second dwelling unit, and you have not challenged that decision. So before -- you're seeking a variance from the requirement that you cannot have two dwelling units in your apartment. And

there's a -- something about the in fill in the second floor which suggests you need a second variance for FAR problems. Although it's hard to determine that from the dimensional form. But those are your two issues. You have two things you seem need to get relief for if you want to go forward.

MARIA MING: Uh-huh.

CONSTANTINE ALEXANDER: And as we explained to you last time, as I recall, we told you what the requirements for a variance are, what you have to prove to our satisfaction to obtain the variance. You've got to show that there's a special hardship to you, and that the hardship is due to soil conditions and the like, the shape of -- the topography of the land, the shape of the lot. And that granting relief would not derogate from the intent or purpose of our Zoning By-Law. That's the standard you have to meet. And you

have to start with the fact that you have to convince us that we should allow two dwelling units in your apartment, because your kitchen has been determined to be -- create a -- the second kitchen you're seeking has been determined to be -- create a second dwelling unit. And that's, that's the record before us because that's never been challenged. And as we pointed out to you at one of the earlier hearings, that if you wanted to challenge that you had to take an appeal for that decision. And you never took an appeal for that decision. So the case before us, it's a given that you're going to have two dwelling units in this unit, in your apartment, and you've got to convince us to give you a variance to allow you to have two dwelling units. With that background we can proceed.

MARIA MING: Okay. I'll address that first issue. We're not seeking to

get a relief for that, the first one, meaning the two dwelling unit.

CONSTANTINE ALEXANDER: Okay. You're not going to have a second kitchen?

MARIA MING: Well, let me just clarify that. That was not a second kitchen just to let you know. It is a restoration of a kitchen that was existed before the accident. It was always there.

CONSTANTINE ALEXANDER: The so-called second kitchen was always there?

MARIA MING: Oh, yes.

CONSTANTINE ALEXANDER: It was there legally?

MARIA MING: Oh, no, it was legal. The people signed off in the city when we bought the building through Mr. Sullivan who built the building. So we were the first owners. So that aside, we're not going to challenge that. I'm just gonna --

CONSTANTINE ALEXANDER: I'm not

sure you understand. You say you're not going to challenge that? That means you can't put that second --

MARIA MING: I'm not putting it in.

CONSTANTINE ALEXANDER: Okay. I want to make sure you're clear. The relief you're seeking to put anything regarding a second kitchen is out of the case?

MARIA MING: It is out of the case, because I really don't have the energy nor the funds to move forward on that.

CONSTANTINE ALEXANDER: Okay.

MARIA MING: Although I have to clarify. The reason that we looking for that kind of a variance to accommodate my 68-year-old husband who cannot go up and down the two floors to use the kitchen. But that aside. If you have to do soil tests and all that, I'm not gonna go

there. Okay? So there.

CONSTANTINE ALEXANDER: What relief are you seeking?

MARIA MING: The only other relief I'm looking for is the FAR in fill of the floor which is between the first and the second floor. Since we have lived there since we bought the building in '94, it has created a situation in which it was most precarious standing at that railing. So in restoring the particular premise that we have at this moment, we like to be able to fill that in for safety reason. So I need to know what I have to do to convince you that needs to be in place.

CONSTANTINE ALEXANDER: I've explained to you already at more than one meeting what you have to do to convince us. What's troubling me about the in fill, I have seen nothing in the file that let's me understand exactly what you're doing. And I can't get my hands around

what the dimensional issues are. There's no plan in this -- in the file here.

MARIA MING: Are you kidding me? The plans are submitted by Lee Kimball.

CONSTANTINE ALEXANDER: Ma'am, I would not kid you. I'm just sitting here doing --

MARIA MING: What do you mean by you don't have any plans?

CONSTANTINE ALEXANDER: Show me the plans.

MARIA MING: What do you want me to show you? I don't know what to show you. I'm not an architect.

CONSTANTINE ALEXANDER: And you have the burden of persuading us to grant you relief. If you can't show us the plans, then we cannot grant you the relief.

MARIA MING: The plans were submitted the Building Department, right, Mr. O'Grady?

CONSTANTINE ALEXANDER: All the plans that were submitted are in that file.

SEAN O'GRADY: I haven't looked at your plans in months.

MARIA MING: In months. Which means what?

SEAN O'GRADY: Which means you --

MARIA MING: You're going to have to help me out here because I had a conversation with you and my husband in attendance. You told us everything was fine with the numbers and all the -- there was a little bit of math that needed to be tweaked by Lee Kimball. Am I not correct?

SEAN O'GRADY: Where is Lee Kimball?

MARIA MING: Excuse me?

SEAN O'GRADY: Why isn't your architect here?

MARIA MING: I have no idea.

SEAN O'GRADY: Your architect has



the numbers.

MARIA MING: They have been submitted to you already.

CONSTANTINE ALEXANDER: What they have submitted to us is in that file.

MARIA MING: Yep.

CONSTANTINE ALEXANDER: There's nothing that I can recall -- I haven't looked at the file that closely lately.

MARIA MING: Well, I don't have the expertise to look at it. I hire someone to do it so....

CONSTANTINE ALEXANDER: Well, the only thing I'm going to suggest you continue this case one more time, for the last time, and you bring your architect here and you bring your plans here and we'll say up or down.

MARIA MING: Well, then I need to know what exactly you need to have so I can bring them to you to your satisfaction, sir.

CONSTANTINE ALEXANDER: We need to know exactly the relief you're seeking. Exactly why this relief does not comply with our Zoning By-Law. In other words --

MARIA MING: Okay.

CONSTANTINE ALEXANDER: And exactly why as a matter of law we should grant you the variance.

MARIA MING: Okay. All right.

Do you want to give me a definition of exactly what you need? In other words, what is the number that you need? The ratio? The math that needs to be involved?

CONSTANTINE ALEXANDER: That's what your architect does. See, the Zoning By-Law has different ratios for different districts.

MARIA MING: Okay. So, what is it so I can comply?

CONSTANTINE ALEXANDER: It's the FAR, what we call the floor area ratio.

MARIA MING: That's right. Yeah, I was told that. So....

CONSTANTINE ALEXANDER: Look in the Zoning -- if you want me to read to you from the Zoning By-Law, I can read it to you. But you can read it as well as I can, and you can do it in the comfort of your home rather than at the hearing here.

MARIA MING: No, I don't have the expertise to read it. Because obviously you and I are not communicating.

CONSTANTINE ALEXANDER: If you don't have the expertise to read it, then you don't have the expertise to understand what I'm going to read to you. That's what I'm trying to tell you.

MARIA MING: No, that's -- that's not true. You can read it to me. I can understand. I don't have the expertise to read it. So....

SEAN O'GRADY: Gus, may I suggest that she needs a completed application.

Her architect is able to do that.

CONSTANTINE ALEXANDER: I agree with that.

MARIA MING: Let me clarify that. That has already been done. How many times do you want me to do that?

SEAN O'GRADY: Evidently it hasn't been done.

MARIA MING: Really?

SEAN O'GRADY: Yes. And I looked at your form today --

MARIA MING: Okay. All right.

SEAN O'GRADY: -- and there were problems with it.

MARIA MING: So, you're telling me at this state the architect has not submitted to you any numbers? Are you saying that?

SEAN O'GRADY: No. I'm not saying that.

MARIA MING: Okay, what are you saying?

CONSTANTINE ALEXANDER: Wait, wait, wait.

SEAN O'GRADY: We're not being interrogated here.

CONSTANTINE ALEXANDER: Sean, wait a minute.

SEAN O'GRADY: Sorry.

CONSTANTINE ALEXANDER: This is a public hearing. We are conducting a hearing. You're not going to cross-examine Mr. O'Grady or anyone --

MARIA MING: I'm not cross-examining him.

CONSTANTINE ALEXANDER: Wait, wait a minute. And you come in here with a chip on your shoulder.

MARIA MING: No, I am not. I am a tax payer here. I haven't been able to go back to the house for two years. I don't think you would like that, sir, would you?

CONSTANTINE ALEXANDER: I'm a tax payer, too.

MARIA MING: All right then.

CONSTANTINE ALEXANDER: And so is every other member of this group making our contribution to this city. We don't appreciate it, and you're not going to win any votes --

MARIA MING: I'm not trying to win any votes. I'm trying to get back to my house.

CONSTANTINE ALEXANDER: I'm going to read you the definition of floor area ratio.

MARIA MING: Okay. Go ahead.

CONSTANTINE ALEXANDER: Floor area ratio: The ratio of gross floor area of a structure to the total area of the lot. That's if you want to read it at your leisure that's in Section 2 -- Article 2 of the Zoning By-Law of the definition section.

MARIA MING: And that's it?

CONSTANTINE ALEXANDER: You have

to take that and you have to read the other sections of the Zoning By-Law which lay out what the FAR, floor area ratio requirements are for districts. Every district has a different requirement.

MARIA MING: The district is?

CONSTANTINE ALEXANDER: We have a map. The City of Cambridge has a zoning map. The City Council has divided the City of Cambridge into various districts. In each district there are different requirements under the Zoning Law, and that's what you've got -- you start with what your Zoning District is. And then you look in the Zoning code and find out what the requirements are for all different kinds of things like dimensional requirements, like FAR. And if you see you don't comply with those, you need to get a variance from us. And to get a variance from us, you've got to, as I said earlier, you've got to demonstrate to us

that there's a substantial hardship that applies to you. Let me read to you exactly what the variance requirements are. This is if you want to take notes, it's in Section 10 -- Article 10, Section 10.30. And this requirement is not only a matter of Cambridge Zoning By-Law, it's also imposed by the state. It's the same thing that the state law requires. And you've got to demonstrate three things to us. We have to make three kinds of findings.

One, a literal enforcement of the Zoning By-Law would involve a substantial hardship, financial or otherwise, to the petitioner. That's you.

Two, the hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures. And especially affecting such land or structure, but not affecting generally the zoning district in



which it is located. It's got to be unique to your situation.

And, three, desirable relief may be granted without either substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of the Zoning By-Law.

MARIA MING: Okay. So you're looking at the exterior or the interior of the building?

CONSTANTINE ALEXANDER: Floor area ratio involves the -- I read it to you, the definition before.

MARIA MING: I know, I know. But when you mentioned soil, the topology (sic), that tells me the exterior of the building rather than the interior of the building?

CONSTANTINE ALEXANDER: Yes. It could affect, the soil conditions for example, it could affect what goes into the interior of the building if the soil

underneath the structure has the --

MARIA MING: The soil will affect the interior of my home inside in terms of FAR. Is that what you're saying?

CONSTANTINE ALEXANDER: It might. You've got to demonstrate to us that it does.

MARIA MING: Okay. If that's what you say.

So, in this particular file here, you're telling me there's nothing in there that tells you that --

CONSTANTINE ALEXANDER: We don't have a specific plan as to what relief you want to do.

MARIA MING: Okay.

CONSTANTINE ALEXANDER: And we don't have specific dimensions either.

MARIA MING: Okay.

CONSTANTINE ALEXANDER: As Mr. O'Grady is referring to, one of the things you filed --

MARIA MING: Okay.

CONSTANTINE ALEXANDER: -- when you filed a petition with us, you filed a table of dimensional form --

MARIA MING: No, I didn't do it. My architect did. But go ahead and tell me and I'll just relate it to them.

CONSTANTINE ALEXANDER: Well, I'll be happy to tell you, but your architect did it once and he knows what we're talking about.

MARIA MING: Okay. I would think so.

CONSTANTINE ALEXANDER: He would have to file a specific, accurate table of dimensional requirements --

MARIA MING: Okay.

CONSTANTINE ALEXANDER: -- which would lay out for us what your zoning problems are.

MARIA MING: Uh-huh.

CONSTANTINE ALEXANDER: -- he

would have to give with that as part of your petition --

MARIA MING: All right.

CONSTANTINE ALEXANDER: -- a specific plan. And that plan, by the way, must be in our files at least 72 hours before we have the next hearing.

MARIA MING: Okay.

CONSTANTINE ALEXANDER: And with that -- and then you -- and then you and your architect can present whatever facts you wish to present to support your petition. We will then hear from the public. And --

MARIA MING: Is it a requirement that the architect has to be here?

CONSTANTINE ALEXANDER: We don't require it. You have to decide whether from your point of view whether you think you need an architect to get the relief. If you believe you can do the case yourself --

MARIA MING: No, they do the drawing except I can't pay them enough to be here, that's all. So, that's why I need to ask.

CONSTANTINE ALEXANDER: The burden is yours.

MARIA MING: Okay.

CONSTANTINE ALEXANDER: You have decide what you can do, what you want to do, what you can afford to do.

MARIA MING: Oh, sure, I understand that, but you know.

CONSTANTINE ALEXANDER: Understand another thing, that the public has the right to make comments.

MARIA MING: Oh, absolutely. I understand that.

CONSTANTINE ALEXANDER: And I will tell you there are already a number of letters in the file opposing your position.

MARIA MING: No, I saw them.

CONSTANTINE ALEXANDER: Okay.  
You're familiar with the file then?

MARIA MING: I'm not familiar with  
the file.

CONSTANTINE ALEXANDER: Oh, you  
just know it by mental telepathy? Okay.

MARIA MING: Okay. All right.  
So, what you're telling me that I  
need a specific plan and a specific Zoning  
requirement, right?

CONSTANTINE ALEXANDER: Table of  
dimensional requirements.

MARIA MING: Okay.

CONSTANTINE ALEXANDER: It's a  
form that the Zoning office requires you  
to file.

MARIA MING: And the architect  
should be knowledgeable of.

CONSTANTINE ALEXANDER: Yes. It's  
called a BZA application form dimensional  
information.

MARIA MING: I've seen that. And

I think -- as far as I'm concerned, they had already submit it. So obviously you're telling me otherwise. So, I'm going to have to take it up with them. Okay.

CONSTANTINE ALEXANDER: What's the next available date?

DOUGLAS MYERS: Is this a case we're continuing?

TIM HUGHES: This is a case not heard.

DOUGLAS MYERS: A case not heard.

SEAN O'GRADY: July 23rd.

CONSTANTINE ALEXANDER: July 23rd. Let me make one further comment.

MARIA MING: Yes.

CONSTANTINE ALEXANDER: We've had you before us a number of times now, starting with the fact that the sign was never posted the first time around. We're going to go up or down on July 23rd. There will be no further continuances.

MARIA MING: All right.

CONSTANTINE ALEXANDER: You better give it your best shot.

MARIA MING: Okay.

CONSTANTINE ALEXANDER: With or without an architect.

MARIA MING: Okay. The 23rd of --

CONSTANTINE ALEXANDER: July at --

MARIA MING: Same time?

CONSTANTINE ALEXANDER: Seven p.m.

Ready for a motion?

The Chair moves that this matter be continued as a case not heard until seven p.m. on July 23rd, on the condition that the petitioner -- listen to me on this one -- you have to take the sign that's posted in front of your house --

MARIA MING: Yep.

CONSTANTINE ALEXANDER: -- and the date that's on that sign, cross it out with a magic marker and put in July 23rd.

MARIA MING: Okay.



CONSTANTINE ALEXANDER: On the condition that the petitioner does what I just instructed her to do.

All those in favor of continuing the case on that basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case is continued.

(Alexander, Hughes, Sullivan, Heuer, Myers.)

MARIA MING: Thank you.

(Whereupon, a discussion was held off the record.)

(7:20 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9783, 10 Trowbridge Street.

Is there anyone here on that matter?

WALLACE SHERWOOD: Yes.

CONSTANTINE ALEXANDER: Please come forward, sir.

We keep a transcript so please state your name and address for the record.

WALLACE SHERWOOD: Wallace Sherwood, 10 Trowbridge Street, Apartment 1, Cambridge, Mass.

CONSTANTINE ALEXANDER: Thank you, sir. Okay, Mr. Sherwood, you're here seeking a variance because you want to install a metal fire escape for your second and third floor?

WALLACE SHERWOOD: That's correct.

CONSTANTINE ALEXANDER: Okay. Go ahead. What exactly is the zoning issue? Are you faced with a setback? Are you too close to the rear lot line and the fire escape will go farther into the setback, is that the issue? Do you know? Or maybe -- I don't want to --

WALLACE SHERWOOD: I was just told I needed a variance.

CONSTANTINE ALEXANDER: Okay. I believe, looking at the file, that that's the issue. It's a setback issue because of the fire escape protruding from the rear of the building. And your building is set back quite far on the lot as I recall.

WALLACE SHERWOOD: Right. Way back.

CONSTANTINE ALEXANDER: Way back. Okay.

Can you tell us a little bit why you want this variance, why you need this variance?

WALLACE SHERWOOD: Well, it started with my brother-in-law dying from a house fire in Brooklyn, New York, in the last two years and there was no fire escape.

CONSTANTINE ALEXANDER: So, it's a safety issue?

WALLACE SHERWOOD: Safety issue,

yes.

BRENDAN SULLIVAN: Is there a second means of egress out of the building now, Mr. Sherwood?

WALLACE SHERWOOD: Yes, there is. But the building is not, you know, strictly, you know, the way a three-family building would be. It's the three floors, but we put an addition on, I think in 1992 or '94.

BRENDAN SULLIVAN: So, you can get out of the back of the building now, but this fire escape would be a much safer and more direct exit?

WALLACE SHERWOOD: Yes, exactly the idea. The plan was to have -- each apartment would have two egress points.

BRENDAN SULLIVAN: Yes.

WALLACE SHERWOOD: But they would have one exterior, one interior.

BRENDAN SULLIVAN: Yes, okay.

CONSTANTINE ALEXANDER: Are there

any issues that the structure is now that does not comply with the building code? Is that one of the reasons you want relief is to bring your building into compliance with the state building code?

WALLACE SHERWOOD: I really don't know the answer to that.

SEAN O'GRADY: You know, I had a conversation that got me thinking. The third unit is the top floor only?

WALLACE SHERWOOD: No.

SEAN O'GRADY: It's up and down?

WALLACE SHERWOOD: Right.

SEAN O'GRADY: And you can leave that unit by two different ways?

WALLACE SHERWOOD: Right.

SEAN O'GRADY: But when you're on the third floor of that unit, you only have the one stair down?

WALLACE SHERWOOD: Right.

SEAN O'GRADY: So you're just -- the building code doesn't require it, but

to give himself an extra way out the third floor.

CONSTANTINE ALEXANDER: I see you're looking through your file. Are you going to show us?

WALLACE SHERWOOD: I was just looking for the diagrams in case you had questions.

CONSTANTINE ALEXANDER: Yes, I think I want to see what you have is what we have in our files. Because we will tie our relief to that. We have here are some plans.

WALLACE SHERWOOD: Yes, that's it.

CONSTANTINE ALEXANDER: Is that it? There are several pages of them.

WALLACE SHERWOOD: Right.

CONSTANTINE ALEXANDER: So these are the plans?

WALLACE SHERWOOD: Yeah.

CONSTANTINE ALEXANDER: Now, there's a letter -- sure.

SEAN O'GRADY: Those are the ones with the ladder, right?

WALLACE SHERWOOD: Right.

CONSTANTINE ALEXANDER: What did you ask, Sean?

SEAN O'GRADY: Those are the ones that have the ladder on them?

CONSTANTINE ALEXANDER: I believe so, yes. Do they have a ladder on them?

SEAN O'GRADY: I want to make sure we have the right ones. Yes, there you go.

CONSTANTINE ALEXANDER: There is a letter in the file from the Cambridge Historical Commission addressed to the Chair, it's dated today. It's from Paul Trudeau, the preservation administrator. It says: I am writing with regard to the variance request by Wallace Sherwood for a fire escape at 10 Trowbridge Street, a house located in the mid-Cambridge Neighborhood's Conservation District.

Mr. Sherwood's application for a non-binding certificate of appropriateness was disapproved by the mid-Cambridge Neighborhood Conservation District at a public hearing on June 1st due to a lack of specific details on the fire escape design and configuration. Mr. Sherwood submitted with me yesterday a revision to the elevation drawing that was presented before the Commission which shows a straight ladder from the second floor landing to the ground opposed to the previously proposed stair and landing. This revision appears to respond to the Commission's suggestion at the hearing to reduce the overall bulk and mass of the fire escape. I encourage the BZA to consider these factors when reviewing Mr. Sherwood's variance request.

I'm a little confused because these plans probably predate -- it says yesterday you submitted a revision to the



elevation drawing. And yesterday would be June 10th. These plans were in the file long before June 10th. Are we looking at the right plans?

SEAN O'GRADY: We actually worked on those together. You can see I sort of crudely taped in a section there. And that's the section with the stairs. So originally under there is a plan.

CONSTANTINE ALEXANDER: Oh, I see what you're saying.

SEAN O'GRADY: It had the stair coming down that way. And the preference now is to just drop a ladder there.

CONSTANTINE ALEXANDER: So this plan and not the underlying --

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay.

TIM HUGHES: Can I look at that real quick?

CONSTANTINE ALEXANDER: Sure.

DOUGLAS MYERS: Mr. Sherwood, are

you familiar with the latest changes that Sean just talked about?

WALLACE SHERWOOD: Yes.

DOUGLAS MYERS: What are the materials in which the fire escape is going to be constructed?

WALLACE SHERWOOD: Metal.

DOUGLAS MYERS: All metal?

WALLACE SHERWOOD: Yes. I mean, it will be bolted into the wood frame.

BRENDAN SULLIVAN: So it's wrought iron basically?

WALLACE SHERWOOD: Yeah.

CONSTANTINE ALEXANDER: The wood frame of the building. You're going to bolt it to the wood and the wood to the building?

WALLACE SHERWOOD: Right.

CONSTANTINE ALEXANDER: Members of the --

TIM HUGHES: Is this visible from the street?

WALLACE SHERWOOD: If you squint enough.

CONSTANTINE ALEXANDER: It's at the rear of the structure.

WALLACE SHERWOOD: It's not real visible from the front, you know.

TIM HUGHES: But from a side angle view.

WALLACE SHERWOOD: And you literally sort of have to from the expansion -- and I asked them when they came by the initial time when they came by, there were no leaves on the trees, you know, and now I've got leaves on the trees, so it's harder to see. You cannot see the whole side of it from --

TIM HUGHES: I'm not opposed to it. I mean, I would have been in favor of either design. I'm just curious as to why the Historical Commission weighed in on the ladder as opposed to a staircase when you can't really see it from the street

for one thing. And for another thing, it seems the staircase would be a safer kind of exit than a ladder depending on, you know, the age or abilities of the persons who are residing on the second and third floor.

CONSTANTINE ALEXANDER: I couldn't agree with you more.

TAD HEUER: Is it that it can be seen through the lot from whatever the opposing parallel street is?

TIM HUGHES: Maybe.

CONSTANTINE ALEXANDER: Well, their concern, from going back to the letter, they wanted to reduce the overall bulk and mass of the fire escape.

TIM HUGHES: God forbid we should have an efficient fire escape. Because it's bulky. It's not historically incorrect.

DOUGLAS MYERS: In the effect that you had a fire escape, do you feel

comfortable using it the way it's shown on that plan?

SHERWOOD WALLACE: Yes.

DOUGLAS MYERS: As a ladder rather than a stairs?

WALLACE SHERWOOD: Right.

DOUGLAS MYERS: You could navigate that if you had to?

WALLACE SHERWOOD: Right. And the ladder, it occurs to me, whether it's me or someone else, you can drop from the ladder at various points. You don't have to wait for the last rung, you know, and the rest of the ladder would be in your way.

BRENDAN SULLIVAN: It's probably something that you're holding on to anyway.

CONSTANTINE ALEXANDER: I have to point out we're not bound by the -- let me ask you a question, do you have a preference yourself between the ladder or

the stairs? What would you do?

WALLACE SHERWOOD: I like the ladder.

CONSTANTINE ALEXANDER: You like the ladder?

TIM HUGHES: Okay.

CONSTANTINE ALEXANDER: He likes the ladder.

TIM HUGHES: That's fine then.

CONSTANTINE ALEXANDER: Any further questions from members of the Board?

Anyone in the audience wish to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard on this matter. Comments or we ready for a motion?

TIM HUGHES: I'm ready for a motion.

CONSTANTINE ALEXANDER: Chair

moves for a variance on the relief being sought on the grounds that a substantial hardship would be incurred by the petitioner if we didn't allow this. The hardship being that we have a less safe structure, residential structure, and the potential for some disastrous consequences should there be a fire.

That there are unique conditions to this -- your structure is setback very far on the lot. It's a non-conforming structure. And so there are unique circumstances relating to your lot.

And that there would be no detriment to the public good by creating the relief. In fact, it would improve the public good by increasing the safety features of the house.

The Chair further notes that your petition has a support now of the mid-Cambridge Neighborhood Conservation District. That's it.

Also, that the relief be granted on the condition that work proceed in accordance with these plans.

WALLACE SHERWOOD: Right.

CONSTANTINE ALEXANDER: Which the Chair will initial.

These plans are plans are plans prepared by Roome and R-o-o-m-e and Guarraciano is G-u-a-r-r-a-c-i-a-n-o. And they are 1, 2, 3, 4 pages. And as initialed by the Chair.

All those in favor of granting the relief, so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Heuer.)

WALLACE SHERWOOD: Thank you.

CONSTANTINE ALEXANDER: Good luck.

WALLACE SHERWOOD: Thank you.

(Whereupon, a discussion was



held off the record.)

(7:30 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: We'll now turn to our regular agenda.

The Chair will call case No. 9794, 86 Normandy Avenue.

Is there anyone here for that case?

AMY FLAX: Yes.

CONSTANTINE ALEXANDER: State your name and address for the record, please.

AMY FLAX: Sure. My name is Amy Flax, 86 Normandy Avenue.

CONSTANTINE ALEXANDER: Okay. Tell us all about what you want to do and why we should allow you to do it.

AMY FLAX: Okay. Well, I have a three season porch on the back. On the first floor there's a tenant's unit, and I live on the second floor. I've lived there for seven years. And it's very narrow. And my main issue is the narrowness of the porch and wanting to turn it into a deck leaving the first floor structure exactly the same. And so, because of the narrowness, we wanted to just make it 32 -- I think it's 32 square feet --

CONSTANTINE ALEXANDER: That's what your petition says, right.

AMY FLAX: -- larger. Only going

to the back. It's on a narrow lot. So, it would only be going to the back. It's a large lot on the back.

And basically the hardship is that it's overly narrow. And also then the decision to turn it into a deck instead of an enclosed porch, which is unheated and not that usable as it is to me, as I get -- start to age, I feel like I would like to have some outdoor space accessible from my second floor where I live. And I've spoken with all the neighbors around me on two -- both -- two houses on both sides. And because they're the only ones that would see it, it's in the rear. The only -- the rear neighbor is the railroad. So, nobody else would see it. So I spoke with everybody, and everyone is supportive. Several of the six houses in a row there that are identical have expanded back a little bit. Two of them have -- or three of them have. And all of them have

dormers, which my house doesn't have. And from what I understand, part of the reason I had to get a variance is because my basement ceilings are seven feet taller above. And I can say that I guarantee that I will never turn that yucky basement into a living space. There are barely windows there. And so I never considered it nor would conceive of it as living space.

CONSTANTINE ALEXANDER: So you know, under our Zoning By-Law, if the basement's base is seven feet or higher, we consider that to be living space whether or not you use it --

AMY FLAX: Right.

CONSTANTINE ALEXANDER: -- or the Zoning Law does. And that goes into the FAR calculation as you heard me describe it to some previousness to one of the prior parties.

AMY FLAX: Right.

CONSTANTINE ALEXANDER: But actually in your case, for the benefit of the other members of the Board, you're reducing the FAR?

AMY FLAX: Exactly.

CONSTANTINE ALEXANDER: By taking off the porch, the three season porch, that reduces it. And so you're going to go from .64 FAR to .62, but the district requires no more than .5. So you're still over even with the reduction. I would also point out to the Board that your -- this deck, is going to extend in the rear and that you will still be 48 feet from the rear lot line according to your form. And the district requires a minimum of 25 feet. So you're at least twice as far back, which is, again, beneficial because it doesn't intrude on the privacy of your neighbors.

And then lastly, when I was out there viewing the property, it looked like

it was just forest behind you. There's no houses. What is back there behind you?

AMY FLAX: It's DCR land. Beyond the fence, beyond my yard is DCR land. And the Small Blair Pond. And this afternoon I saw a coyote back there. It's pretty neat. So it is essentially a wild space back there.

CONSTANTINE ALEXANDER: So the concerns we often have about privacy when we're talking about decks, are not present in your case.

AMY FLAX: Right.

CONSTANTINE ALEXANDER: Both the large rear yard and what I call the forest beyond.

TIM HUGHES: And what about the privacy of that coyote?

AMY FLAX: I know.

CONSTANTINE ALEXANDER: Does he pay taxes to the city?

AMY FLAX: He may not want to see

me sitting out there. He doesn't pay taxes.

TAD HEUER: And you're not extending the first floor out -- the extension is a build over?

AMY FLAX: Exactly. And cantilevered. There are drawings that I submitted. Yes, that's going to be untouched exactly the same.

CONSTANTINE ALEXANDER: Any further questions from members of the Board?

Is anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes none.

Comments or are we ready for a vote?

TIM HUGHES: I'm good.

BRENDAN SULLIVAN: It's a step in the right direction.

CONSTANTINE ALEXANDER: I'm sorry?

BRENDAN SULLIVAN: It's a step in the right direction.

CONSTANTINE ALEXANDER: I think so.

The Chair moves to grant the petitioner a variance as requested on the basis that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner. The hardship being that she now has a three-season porch which is not functional because of its -- of the exterior dimensions, it's long and narrow.

That the hardship that you're seeking is relating to the shape of the land or structure. The structure is a narrow structure. And you're just extending it back further with your rear deck.

And that there would be no substantial detriment to the public good on the grounds that privacy -- given the



nature of your neighbors, there would be no intrusion on the privacy, particularly you have a large rear yard.

The Chair would further note for the record that you represented to us all of your neighbors are not opposed to the relief you're seeking.

The Chair would move that the variance be granted on the condition that the work proceed in accordance with plans submitted by the petitioner prepared by Community Builders Cooperative. There are two pages. And the Chair will initial them.

These are the plans now. You're not going to change them.

AMY FLAX: Yes, those are the exact plans.

CONSTANTINE ALEXANDER: Okay.

AMY FLAX: That's the contractor.

CONSTANTINE ALEXANDER: All those in favor of granting relief on the basis

so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in  
favor.

(Alexander, Hughes, Sullivan,  
Myers, Heuer.)

AMY FLAX: Thank you so much.

CONSTANTINE ALEXANDER: Thank you.

(Whereupon, a discussion was  
held off the record.)

(7:45)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9795, 32 Quincy Street, the President and Fellows of Harvard College.

Is anyone here who wishes to be heard on that case?

(No response.)

CONSTANTINE ALEXANDER: The Chair that there is no one here. The Chair also notes that we are in possession of a letter dated June 9th, addressed to the Board from Alexandra Offiong, O-f-f-i-o-n-g, Director of Planning Services.

"Harvard University had a public hearing scheduled with the Board of Zoning Appeal on June 11, 2009, for the 32 Quincy

Street project. On behalf of the university I would like to request that this hearing be continued to the next available hearing date to allow the project to first be presented to the Planning Board at the June 16, 2009 meeting."

So, what's the next available date?

SEAN O'GRADY: August 13th.

CONSTANTINE ALEXANDER: This will be a case not heard obviously.

The Chair moves that this case be continued until seven p.m. on August 13th on the condition that the petitioner change the posting sign to reflect the new hearing date or the continued hearing date, and on the further condition that the petitioner sign a waiver of notice on the form that the Board uses. It being the position of the Board that the letter requesting the continuance is effectively such a waiver, but we'd like to have our

usual form of waiver, nevertheless, for the purposes of our files.

All those in favor of granting relief, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Heuer.)

(Whereupon, a discussion was held off the record.)

(8:00 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Douglas Myers, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9796, 42-58 Willow Street, Cambridge Housing Authority.

Is there anyone here wishing to be heard on that matter? Please come forward.

Before we start. Just so you know, there is a letter, or actually an e-mail, in opposition to the relief that you're seeking.

FEMALE AUDIENCE MEMBER: Can all the people see those pictures, like, the residents?

CONSTANTINE ALEXANDER: Anybody

who wants to see them, please --

FEMALE AUDIENCE MEMBER: Can we turn them around?

CONSTANTINE ALEXANDER: Oh, yes, come around. If you need to come closer to hear, feel free.

Now, the point I was making for the benefit of the petitioners is that there is a letter, an e-mail in the file, of opposition. Sometimes when petitioners come before us and there is opposition on record --

FEMALE AUDIENCE MEMBER: I can't see it.

CONSTANTINE ALEXANDER: -- that they continue the case to see if they can work things out with petitioner or -- I'm sorry, or the opponent, or otherwise reconsider their plans. And it's your choice what you want to do. I would only point out this: Is that if you start the case tonight, and we go through that and

you don't like what you're hearing or you have some second thoughts, and you want to continue it in the middle of your discussion, that's all right, except that it's what's considered to be a case heard. And so if we do continue it, we have to continue it to a date when all five of the people here will be available.

TERRY DUMAS: Okay.

CONSTANTINE ALEXANDER: And I would further point out, except for Mr. Myers will not be available until September. So, if you start the case and you choose to continue it in the middle of the case, you won't get all five of us together until September.

TERRY DUMAS: Right.

CONSTANTINE ALEXANDER: You can still go forward with four of us, but that's risky.

TERRY DUMAS: Right.

CONSTANTINE ALEXANDER: So, I just



want to let you know now. If you choose to -- but if you continue the case now before we start, we can hear it the very next time. We don't need all the same five people here.

TERRY DUMAS: Right.

CONSTANTINE ALEXANDER: So, the next time there's available time we can hear it. I just don't want to get you blind sided.

TERRY DUMAS: Yeah. No, I think we would like to go forward.

CONSTANTINE ALEXANDER: Okay.

TERRY DUMAS: We're actually in construction right now.

MALE AUDIENCE MEMBER: Can we submit other material later on?

CONSTANTINE ALEXANDER: Oh, yes. There will be an opportunity for the public to be heard, letters to be given. Oh, yes. Yes. Don't worry.

MALE AUDIENCE MEMBER: Thank you.

CONSTANTINE ALEXANDER: Our procedure is we'll start with the petitioner giving their case. We'll ask questions. We'll open it up to the public. We'll read any letters in the file, and then we'll discuss the case.

So, again, for the record, give your name and address to the stenographer, please.

AHMED IDRIS: Ahmed Idris.

TERRY DUMAS: Speak into the microphone.

CONSTANTINE ALEXANDER: I don't think the microphones are working.

TERRY DUMAS: Oh, okay.

AHMED IDRIS: I have a business card.

CONSTANTINE ALEXANDER: Yes, if you have a business card, that would be best.

TERRY DUMAS: And Ahmed is from Baker Wohl Architects.

CONSTANTINE ALEXANDER: Okay.

TERRY DUMAS: They're our architects.

Terry Dumas, I'm the director of planning and development at the Cambridge Housing Authority.

BILL EWALL: And I'm Bill Ewall. I'm Deputy Director of the Cambridge Housing.

CONSTANTINE ALEXANDER: Thank you, sir.

BILL EWALL: E-w-a-l-l.

CONSTANTINE ALEXANDER: So, why don't you tell us what you want to do and why you think we should give you the relief that you're seeking.

AHMED IDRIS: Okay. So, basically what we're talking about is -- right now we're under construction doing some major renovations to these units. What we are seeking is to add three windows and a couple of buildings. So we're calling the

building B and building C. This is Willow Street right here (indicating). This is the area of concern (indicating). We are proposing three --

TERRY DUMAS: And Cambridge Street -- just orient them a little bit.

AHMED IDRIS: Cambridge Street is over here (indicating).

CONSTANTINE ALEXANDER: But it's not the corner lot?

AHMED IDRIS: No.

So, it's basically one big lot that CHA owns as a three-story building here (indicating), and a couple of town homes. And the areas we're talking about are the town homes.

CONSTANTINE ALEXANDER: Right.

AHMED IDRIS: The major issue is we don't meet currently the setback requirement. It seems to be 11 feet. We're only at seven foot, nine. It's an

existing non-conformity. And we're seeking relief at three windows at this elevation.

CONSTANTINE ALEXANDER: And to be clear, the relief you're seeking is a Special Permit, not a variance. A Special Permit requirements are not as severe as those for a variance.

TERRY DUMAS: And this was originally built -- it's we believe it was modular housing. And those end walls don't have any windows in them.

AHMED IDRIS: They're blank.

TAD HEUER: You say it's preexisting non-conforming?

CONSTANTINE ALEXANDER: That's not right.

TAD HEUER: They seem pretty new to be preexisting.

TERRY DUMAS: They were built in early seventies, something like that.

TAD HEUER: No way they're

preexisting.

CONSTANTINE ALEXANDER: Well, the setback requirements should have changed since '70.

TERRY DUMAS: I didn't say they were preexisting non-conforming. I said they were modular housing and they were built with no windows in the end walls.

TAD HEUER: Right. I just heard the architect they were preexisting.

BILL EWALL: To us they are. Because when CHA bought them --

TERRY DUMAS: No, they're talking about non-conforming in terms of the zoning.

CONSTANTINE ALEXANDER: Yes. How did you build it at first? Did you get Zoning relief when you put the modulars up on the setback requirements?

TERRY DUMAS: A developer developed this and the Housing Authority bought it from the developer when the

developer didn't sell it.

CONSTANTINE ALEXANDER: Well, presumably the developer had to have a building permit along the way, and that building permit would have had a Zoning check associated with it. Right?

SEAN O'GRADY: Correct, yes.

CONSTANTINE ALEXANDER: So.

SEAN O'GRADY: Is this a corner lot?

TERRY DUMAS: No.

BILL EWALL: No.

SEAN O'GRADY: So that's a rear setback?

AHMED IDRIS: Side.

TAD HEUER: Side yard setback.

SEAN O'GRADY: I thought Cambridge Street ran along the right-hand side.

BILL EWALL: We're in the middle of the block.

TERRY DUMAS: It was built in the early seventies. The Housing Authority

bought it approximately 1975, and first occupied it in 1976.

AHMED IDRIS: Okay. So I'll show you now what with these windows look like to give you an idea. So we're basically talking about these three windows on the second floor. These two land in bedrooms (indicating). This one is the middle of the stair hall (indicating). And they're pretty much the same for both buildings, B and C. Pretty much the same elevation. Right now there's nothing.

CONSTANTINE ALEXANDER: What you're showing us are these two pages that are in our file?

AHMED IDRIS: Yes.

CONSTANTINE ALEXANDER: Same thing?

AHMED IDRIS: Same thing.

BILL EWALL: From the owner's point of view, the reason that we're doing this is those units are incredibly dark



and we're trying to brighten them up for the residents.

CONSTANTINE ALEXANDER: The file says that.

BILL EWALL: Okay.

AHMED IDRIS: So, in terms of the layouts. These two are, as I said, the bedrooms that don't get very much light, and that's the reason for that. And the stairwell is very dark as well. And so --

CONSTANTINE ALEXANDER: Have you received complaints from the occupants of those units? Trouble getting people to stay in there because of the darkness?

AHMED IDRIS: We received complaints during the design phase, yes.

CONSTANTINE ALEXANDER: When you say complaints --

AHMED IDRIS: During the design phase, when we were doing our surveys --

CONSTANTINE ALEXANDER: Right.

AHMED IDRIS: -- designing this

was the major requests were light, bathrooms, kitchens.

CONSTANTINE ALEXANDER: And only from the people there, the other occupants?

AHMED IDRIS: No, actually throughout. So we're actually adding windows in other areas.

CONSTANTINE ALEXANDER: But those don't require --

AHMED IDRIS: Those don't require Special Permit.

So in terms of context, there is a six to eight foot fence running across the back of the project. It does look on these properties (indicating). And I believe the property owners have already acquiesced.

TERRY DUMAS: Two adjacent properties.

CONSTANTINE ALEXANDER: That's important. You have checked with the

people most directly affected, the neighbors? And they have expressed no opposition?

TERRY DUMAS: We have a letter in the file. The two adjacent properties are owned by Homeowners Rehab, and there's a letter in the file from Homeowners Rehab.

CONSTANTINE ALEXANDER: We do have a letter in the file from Homeowners Rehab.

TERRY DUMAS: Right.

CONSTANTINE ALEXANDER: That's one property. What about the other one?

TERRY DUMAS: Both properties. They actually own --

CONSTANTINE ALEXANDER: I haven't read the letter yet, so....

TERRY DUMAS: Yeah. So, if you, if you -- here's the property right here (indicating). The windows in question are right in this location.

CONSTANTINE ALEXANDER: Yes.

TERRY DUMAS: And Homeowners location owns this three decker right here (indicating), as well as this one right here (indicating). So, those are the two buildings that are adjacent to the location where the windows are proposed to be located.

CONSTANTINE ALEXANDER: Thank you.

TIM HUGHES: Can I see that picture, please?

TERRY DUMAS: Oh, sure. There's this (indicating). And it's a little bit easier to see it here where this is the site in question, Willow Street homes. And it's this property right here that abuts basically the two buildings and then the back of this building abuts the second building (indicating). So these are the walls where we're proposing to locate the six windows. You can tell a little bit clearer from that.

TIM HUGHES: Okay.

CONSTANTINE ALEXANDER: Anything else to present to us?

TERRY DUMAS: That's it.

CONSTANTINE ALEXANDER: I'm going to read -- what I'm going to do is read some letters into the record before we hear public testimony. But before I do that, are there any members of the Board have any questions at this point? No questions.

The Board is in receipt of two letters, or a letter and an e-mail. One is from Homeowners Rehab, Inc., dated June 9th. And it says: "I am -- and the front of the letter is signed by the Peter Daly, the Executive Director of Homeowners Rehab, Inc. "I am writing in response to the Cambridge Housing Authority's request for a Special Permit at 42-58 Willow Street as part of the modernization project underway there. The renovations renew this three-building development

abutting our properties at 34-36 Willow Street and 15-17 Lincoln Street. The Cambridge Housing Authority proposes to add six windows to the south exterior wall of the buildings. Presently these two buildings have no windows on this wall which is adjacent to our side of the property line. The proposed windows will be located along a shallow side setback that is seven feet, nine inches rather than 11 feet as required. The CHA's building is 12 feet, 10 inches from the side of our building. Our side setback is about five feet, ten inches at the narrowest point, and our property has more than 20 windows on the same side as the Cambridge Housing Authority proposes six. We have no objection to this Special Permit request."

The other written communication on file is an e-mail from Craig Kelly addressed to the Board. "I write in

opposition to BZA Case 9796, a request by the Cambridge Housing Authority to put six windows on the second floor of its properties at 42-58 Willow Street in Cambridge's Wellington Harrington area. As you know, this part of Cambridge is exceptionally dense, and the six windows CHA hopes to put up high above the ground would significantly impact the privacy of its neighbors who would be facing these new windows. Having been to many meetings on similar issues all over town, including a case on Yerxa Road that recently made it in front of you, I am confident that very few people want more windows facing onto their property. While we all acknowledge that one does sacrifice some privacy for the conveniences of living in a dense urban area, it is also true that we want to maintain what little privacy we have. Not see it destroyed by an adjacent developer. CHA's neighbors bought their

property understanding that there would be some windows overlooking them. Those windows were already there just as windows face onto most of our property. They could rightfully have expected that there would be no more windows, but sadly they would have been wrong. Already a housing proposal for the former church on Windsor Street threatens to add more windows overlooking adjacent property -- I'm stopping here because this is not relevant to our case.

I'm going to continue with the letter: "To add more windows with issues of both sight, when opened or closed, and noise, when open, is simply asking the neighbors to give up too much of their quality of life. No one wants to live in the fish bowl of too many windows looking onto their property. Especially with windows at this height, something of a one-way mirror would be created with



neighbors in their own yards being fully visible to people viewing them through these new second-story windows without being able to look back in return because of the angles caused by the new window's height. Granting this Special Permit would be an unfair transfer of wealth from the neighbors for whom a decreased amount of privacy would result and lower values to the housing authority for whom new windows would make their units more attractive, if not more expensive. There is something inherently unfair about this proposition that a large property holder with holdings worth in the tens of millions of dollars, if not more, may still add more value at the expense of its much more modest neighbors. In summary, I ask you that respect the rights of CHA's neighbors to privacy in this dense area and denies CHA's Special Permit application."

The Chair would note that the writer of this e-mail resides at Six St. Gerard Terrace, which I don't believe is in the general vicinity of this project. And further, that the privacy that is -- issues that have been raised by Mr. Kelly with regard to the neighbors has already been addressed in the letter I previously read from the neighbors most affected or only affected, and these neighbors expressed no opposition, no objection to the request, and have not raised any issues of the invasion of privacy.

BRENDAN SULLIVAN: Gus, is the area map in there?

CONSTANTINE ALEXANDER: Which?

BRENDAN SULLIVAN: The Assessor's area plan in the file there?

CONSTANTINE ALEXANDER: The very first page of these plans -- the plot plan?

BRENDAN SULLIVAN: The area of the

neighborhood.

CONSTANTINE ALEXANDER: Yes. You want to see it?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: At this point I'll open this up to public comment.

Sir, do you want to speak? Again, you have to come forward and give your name and address for the stenographer.

RUDY BELLIARDI: My name is Rudy Belliardi.

CONSTANTINE ALEXANDER: Spell it, just spell it for her.

RUDY BELLIARDI:  
B-e-l-l-i-a-r-d-i. First name is Rudy  
R-u-d-y. I live at 195 Webster Avenue. I  
would like to say to begin with, that the  
--

CONSTANTINE ALEXANDER: Can I see what -- Mr. Sullivan has the plot plan. Where is your property in relation to the property here?

RUDY BELLIARDI: It is -- it is --

CONSTANTINE ALEXANDER: Show me on the plan.

RUDY BELLIARDI: I can show you -- I can show you here.

CONSTANTINE ALEXANDER: All right, sure.

RUDY BELLIARDI: It's right here (indicating). It's diagonal. It's this one (indicating). Diagonal here (indicating). My yard is in with their yard.

I would like to say that the two people that you read the letters about -- they are not the only people affected. Indeed, I have pictures that I would like to submit. These are signatures -- this is a petition that I would like to read.

"We oppose the addition of six new windows to the south exterior wall of 42-58 Willow Street, as there will be severe impact for the privacy of

neighbors, increase noise and light pollution and cause neighbors to use screens with consequent loss of daylight."

I would like to say that for many of us we are -- our windows they are on the north side. If we -- we already get very little light. If we end up having to close because of privacy, we get no light whatsoever. You can check these, many of them are out on Lincoln. Lincoln does abut directly. There are windows that would -- if you go to the other one, I can probably show better. Okay. (Inaudible). Okay. There are windows here that are opening directly on some people yards, some people bedrooms, some people windows. I will show you a picture. They open on mine as well, on my yard and on my windows. We took pictures from windows.

Go ahead.

CONSTANTINE ALEXANDER: I have a question. The petition --

RUDY BELLIARDI: My house is here.

CONSTANTINE ALEXANDER: I know where you are. The other people who signed the petition, where are they?

RUDY BELLIARDI: They are -- the people they are the one that receive letters to come here, to be interested. And they are on this side (indicating). And some of them are on this side (indicating). And on this side here (indicating).

CONSTANTINE ALEXANDER: Well, the one on this side -- one second. The one on this side, you pointed out --

RUDY BELLIARDI: Lincoln is here, okay? (Indicating).

CONSTANTINE ALEXANDER: No, no, I just wondered -- we have a letter from the people who are right directly affected.

RUDY BELLIARDI: And we have people here that are direct --

CONSTANTINE ALEXANDER: I just

want to understand. The letter we got from the landlord, you are tenants in the structure? How is it we got a letter that --

RUDY BELLIARDI: No, there is another house that borders them. They very conveniently didn't ask to anybody else. They ask only to those two developments. And I would like to say this: I sent a letter to Mr. Ranjit, I am sorry if he did not receive it, but I give you a copy as well. I sent it via e-mail.

FEMALE AUDIENCE MEMBER: There was another e-mail sent that you did not read.

CONSTANTINE ALEXANDER: We don't have it.

RUDY BELLIARDI: Well, I give it to you. I tell you what happened. It did bounce because the others missing something, but they sent it again and it did go through. So can you please read it?

CONSTANTINE ALEXANDER: Yes, we'll read it into the public record. Not right now. I'll let you finish your remarks.

RUDY BELLIARDI: So, we have other people. If you look at the addresses here that are on Lincoln they are all abutters. And the thing is this: We are being subject to noise, boom boxes all the time. There is very little privacy. Somebody may say if you don't have privacy, why are you concerned about it? There are some spots where we do have privacy, and they are the only one left that are quiet for the family. If I had a broken leg, the worse thing that can happen to me is to break the other one. So the fact that we don't have privacy or very little privacy is not an excuse to have zero privacy whatsoever.

I would like to show you some pictures that I've taken from our windows and to show what we see now and what we



are very anxious to see down the road. At the same time we do not (inaudible) so some of the people that live in those two houses (inaudible). I can tell you it's very unfortunate, but they are as anxious as we are, and they would never come here because they don't want to get the owner upset. So we don't expect them to come. But they are a local family. There are indeed six families each, and they are facing there and I tell you their windows are mostly closed where they face somebody else. So they are already -- they are already testing for the situation they have now. I am not saying that I speak for them because I don't want to take these responsibility, but I know what they feel and they would never face, with some assertion that they may be damaging to them. This is what they feel.

CONSTANTINE ALEXANDER: You said you have some pictures you would like to

show?

RUDY BELLIARDI: I have pictures.

CONSTANTINE ALEXANDER: I would like to see them, and I'd like to make sure the petitioner has seen them as well and whether they're being slanted in some fashion.

BRENDAN SULLIVAN: Can I just interject here for a minute?

CONSTANTINE ALEXANDER: Yes.

MALE AUDIENCE MEMBER: By the way --

BRENDAN SULLIVAN: Hold on for one second, sir. Can you show us exactly where the windows are going in here?

TERRY DUMAS: Up here. So one -- the little one for the stairwell -- and the other bedrooms are two. Bedroom, bedroom, bedroom. So these are the two properties that are --

BRENDAN SULLIVAN: Okay. So Homeowners we have owns this one.

TERRY DUMAS: This and this one.

BRENDAN SULLIVAN: And this one  
here.

MALE AUDIENCE MEMBER: And these  
are at the second level (inaudible).

CONSTANTINE ALEXANDER: And the  
gentleman who just spoke said it was right  
over here (indicating).

DOUGLAS MYERS: Could you mark  
this out on the plan?

CONSTANTINE ALEXANDER: Sir, would  
you -- I want to make sure -- put an X on  
where your house is on this plan. Here?

MALE AUDIENCE MEMBER: My house.

CONSTANTINE ALEXANDER: That's  
yours. And the other people who you say  
they sign the petition. Now are these --

RUDY BELLIARDI: Yeah.

CONSTANTINE ALEXANDER: Behind  
this house.

RUDY BELLIARDI: No, it's --

FEMALE AUDIENCE MEMBER: Behind

the --

CONSTANTINE ALEXANDER: I'm not debating. I just want to understand.

RUDY BELLIARDI: Here. Here. And then we have similar houses here. We have people from just about every house. This one. This one. This one. There is a lady at the corner that she sign but she's sick.

CONSTANTINE ALEXANDER: I'm just curious. Take these two people here, how are their privacy affected by the windows over here?

RUDY BELLIARDI: They will send the letters, so assume they are abutters, they are concerned they have windows as well.

CONSTANTINE ALEXANDER: They're abutters. I don't deny that. But the question is these abutters, will their privacy be affected? I'll let someone else address it if you can't, but I want

to address it.

RUDY BELLIARDI: Yes. The reason they sign it they are concerned that they're gonna get --

CONSTANTINE ALEXANDER: Thank you. You'll have an opportunity.

BRENDAN SULLIVAN: If I can interject just one more.

CONSTANTINE ALEXANDER: Yes.

BRENDAN SULLIVAN: These are the ones that you need relief for.

AHMED IDRIS: Correct.

BRENDAN SULLIVAN: Are you also adding more windows along here (indicating), that you don't require any relief but you're adding some additional windows?

AHMED IDRIS: (Inaudible.)

CONSTANTINE ALEXANDER: Speak up, sir.

AHMED IDRIS: We're adding one on this face, on the interior courtyard, and

on these faces here (indicating).

TERRY DUMAS: Ahmed, can you mark them on the plan so that everybody can see? Or I mean -- right there on that plan, on the site plan. Just show us the other locations.

AHMED IDRIS: The windows would be going -- they are highlighted here.

CONSTANTINE ALEXANDER: But these are a matter of right, just so we're clear.

AHMED IDRIS: Right.

BRENDAN SULLIVAN: So this is the orientation of the locus with the area map.

AHMED IDRIS: Correct.

BRENDAN SULLIVAN: So that there are some windows being added here (indicating), obviously facing the parking lot. I'm just trying to find the source of the aggravation basically. Okay.

CONSTANTINE ALEXANDER: You were

going to show us some photos.

RUDY BELLIARDI: Also, you think -- the reason given which I didn't find in the folder when I went to the inspection building, is that they don't have light. Well, there are already windows here. I would like to point out that there are windows here (indicating). There are windows here (indicating). So there's windows. There are windows here and windows here (indicating). You can look at the design. It's not that these rooms don't have windows.

CONSTANTINE ALEXANDER: I don't think they ever said that they don't have any light, they want to improve the light.

RUDY BELLIARDI: Yes. It would be nice if they don't diminish our lights while they improve theirs.

These are pictures from my yard.

CONSTANTINE ALEXANDER: And the window would be right here or one of the

windows would be right there?

RUDY BELLIARDI: Yes, one here, one here, one here.

CONSTANTINE ALEXANDER: Okay.

RUDY BELLIARDI: These are pictures from my window.

CONSTANTINE ALEXANDER: If you wish to look at these and quarrel with any of them, this is your opportunity.

TERRY DUMAS: Yes, I would like to.

RUDY BELLIARDI: And these are pictures from the Lincoln house, and they are over there, the residents of Lincoln house. They have windows directly facing there. You may know there is a fans here already for privacy. These fans cannot go as high as this. As this -- this is the house.

CONSTANTINE ALEXANDER: I'm sorry, the Lincoln property, where is this on the --



RUDY BELLIARDI: It's this one.  
This one (indicating).

CONSTANTINE ALEXANDER: How are  
they --

RUDY BELLIARDI: Oh, this is not a  
stair. If you look at the -- this is the  
deck.

CONSTANTINE ALEXANDER: I  
understand.

RUDY BELLIARDI: Not to scale.

CONSTANTINE ALEXANDER: I  
understand, not to scale.

RUDY BELLIARDI: You can see the  
big chunk here. 1, 2, 3 windows.

CONSTANTINE ALEXANDER: I see.

RUDY BELLIARDI: And then there  
are also complaints over here.  
(Inaudible.)

I would like to show --

CONSTANTINE ALEXANDER: One  
second.

Do you dispute that these photos are

accurate?

TERRY DUMAS: We don't. I mean, we have no way of knowing.

BILL EWALL: There's no way to check it. I'm sure there is a way to see some of those walls from --

CONSTANTINE ALEXANDER: Okay. I'm not -- let me have all of these photos back so I can keep them in the file.

TERRY DUMAS: Yes.

RUDY BELLIARDI: There's one you can see from far away.

CONSTANTINE ALEXANDER: They're basically the same photos.

TERRY DUMAS: Now, this is -- your house is in this picture?

RUDY BELLIARDI: No.

CONSTANTINE ALEXANDER: That's the Lincoln Street.

RUDY BELLIARDI: I'm going to submit this picture as well which is interesting. This picture is from my

house again. You may notice everything was thrown out. There was stuff on the trees, I don't know what it was. But this is again the two sides you can see from my house. This was full of stuff on the tree. On the branches of the tree. There is still a pillow there. So somebody threw it out. There are cigarettes everywhere. They're being thrown out because there is no way that -- I don't smoke. There is still now, because I didn't touch it, there is a bone it is that big in my yard. That is too heavy for any rodent to be taking there. I don't know how it got there. But there are, there are a lot of noises.

CONSTANTINE ALEXANDER: Well, okay. The Chair would just simply note that there is litter in your yard or things of that sort. That is not relevant to whether we should allow windows. Windows go to noise and privacy. The

point's been very well made. But the fact that you live next to a housing authority, you live next to a housing authority. And if there are issues, this is not the forum to get them resolved.

RUDY BELLIARDI: No, no, no. This is not the issue. The issue is that people throw things because they have the possibility of throwing. Nobody lounges.

CONSTANTINE ALEXANDER: No, I -- but unless you say because windows is more likely to throw things through the open windows, that's your point.

RUDY BELLIARDI: That's right. It is the only point I make.

CONSTANTINE ALEXANDER: Okay. Are you finished, sir?

RUDY BELLIARDI: You can figure out yourself. I mean, there are plain view. They are from my windows.

CONSTANTINE ALEXANDER: Thank you. I will read --

RUDY BELLIARDI: I can provide more if you desire.

CONSTANTINE ALEXANDER: I'll read into the record the letter that you said you had sent.

RUDY BELLIARDI: Please.

CONSTANTINE ALEXANDER: Then I'll take other testimony.

RUDY BELLIARDI: Sure.

CONSTANTINE ALEXANDER: It's a letter from Rudy Belliardi, addressed to the Board. "I'm writing in regard to BZA case 9796, in opposition to the Cambridge Housing Authority request for the addition of six new windows on the second floor of 42-58 Willow Street. Cambridge is a relatively large city. It is frustrating to realize that our extremely dense little corner of the Wellington Harrington neighborhood keeps getting nonstop development related events. None of these events improve the life of the current

residents. On the contrary, they're asked to sacrifice and give up various freedoms. Privacy is certainly one of them. We are too tight to allow more window views on our bedrooms and yards. This would force us to close up our windows, losing the already scarce daylight on the north side with nowhere to go in our yards for quiet and family. We have been subjected to boom boxes and loud music until late in the night apparently from windows wide open. We are regularly experiencing trash, dangerous cigarettes, any kind of stuff on tree branches intentionally thrown as there is no other way for it to get there. Discarded food found in yards, some too bulky to have been carried by rodents. Things do happen, but when facilitated more things happen. It is very demoralizing and demotivating to write about the situation. All of the above can be documented. Any complaint

would not be helpful for a peaceful neighborhood. So many people just submit. I did many times. I just clean-up and close my windows. Some residences abutting Willow Street are owned by entities similar to the CHA. We grant you that the residents in these buildings are very concerned with privacy, noise, lights and similar being compromised by the addition of the new windows.

Unfortunately it is unlikely they will voice their anxiety to you since they're afraid of upsetting the owners. This is real and very sad. The value of privacy is highly regarded. Please, you are our only line of protection. Vote no to the addition of six new windows to the south exterior wall at 42-58 Willow Street. As they will severely impact the privacy of neighbors, increase noise and light pollution and cause neighbors to use screens with consequent loss of daylight."

That's your letter, sir?

RUDY BELLIARDI: Thank you.

I would like to add one thing.

CONSTANTINE ALEXANDER: Okay.

RUDY BELLIARDI: On Article 5 --

CONSTANTINE ALEXANDER: I'm sorry, you had a petition by the way. It's over here.

RUDY BELLIARDI: Yeah.

CONSTANTINE ALEXANDER: Okay. I wanted to make sure I have it.

RUDY BELLIARDI: On Article 5 which is the article that controls at least part of the Special Permit --

CONSTANTINE ALEXANDER: Yes.

RUDY BELLIARDI: -- if you go on the -- you know much better than I do, I'm sure. 528.27 the criteria of approval of a Special Permit.

CONSTANTINE ALEXANDER: Let me just stop you right there. I think you got the wrong section.



RUDY BELLIARDI: You think so?

BRENDAN SULLIVAN: 10.43.

CONSTANTINE ALEXANDER: Yes.

10.43 I was going to look at 10, Article 10. I'm going to pull it out.

RUDY BELLIARDI: I have 10 as well. Just in case (inaudible).

CONSTANTINE ALEXANDER: And you have to be aware, sir, and those of you in the audience, that a Special Permit by our Zoning By-Law is basically looked upon with favor. In other words, we grant them, or we're supposed to grant them unless we feel strongly otherwise. Unlike a variance where the burden is completely on the petitioner to variate some very tough standards. So it's a different -- we have to deal with the law we have before us. It's a different set of criteria. Which is not to say I'm prejudging it, but I want to point out to it.

MALE AUDIENCE MEMBER: Sounds it.

RUDY BELLIARDI: The reason I got the five is because -- I stuck it with eight. Eight sent to me 10, 10 sent me to five.

CONSTANTINE ALEXANDER: Yes. 10 is the one that will govern tonight. And there are various requirements which we'll get to when the time -- the criteria. And I will read from 10.43: Special Permits will normally be granted where the specific provisions of the ordinance are met except when particulars of the location or use, not generally true of the district, would cause granting of such permit to be to the detriment of the public interest because.... And it lists various factors which we'll get to. So that's the framework in which we're considering this case.

RUDY BELLIARDI: And in (inaudible) I would like to highlight d.

It says nuisance or other --

CONSTANTINE ALEXANDER: You've made that point already quite clearly. You don't have to make it again. I'm not trying to cut you short. But you've made the point about that, so let's not repeat it.

RUDY BELLIARDI: D and B.

CONSTANTINE ALEXANDER: I understand. We're going to get to that. We're going to get to that.

You've been patient, so please come forward. Give your name and address.

CARMELA PUCCI: My name is Carmela, C-a-r-m-e-l-a. Last name Pucci, P as in Paul, u-c-c-i. And my mother and I --

CONSTANTINE ALEXANDER: Where do you live, first of all?

CARMELA PUCCI: 11 Lincoln Street. So, we're between 15 and 17 Lincoln Street that wrote a letter to you guys saying

that they were okay with everything that's going on.

CONSTANTINE ALEXANDER: You live in between the buildings on the pictures we saw?

CARMELA PUCCI: The in between -- we actually live -- so, we live in between 15-17 Lincoln Street and we live at Nine Lincoln Street. And we also live on -- so the back of our house faces Willow Street. So we're -- okay.

CONSTANTINE ALEXANDER: And the back of your house would be affected by the windows?

CARMELA PUCCI: Yes. So this is my house right here (indicating). This is where we live.

TAD HEUER: You're in the building that is owned by --

CARMELA PUCCI: No, we're in the middle.

CONSTANTINE ALEXANDER: Do it on

this one. Here are the windows. Show us where your house is.

CARMELA PUCCI: Okay. Right here (indicating). So, the sad thing is we have these wonderful windows on this side that we can't open already for privacy because we're right beside 15-17. We have one nice kitchen window on both floors that once we open these windows, we will no longer be able to open that up. And we have no light, no privacy already. And we have that nice one kitchen window that we can open up and let the sun in. And now, if those windows go up, we won't be able to --

CONSTANTINE ALEXANDER: You're confirming with Mr. Belliardi's point about the privacy and --

CARMELA PUCCI: Definitely.

TERRY DUMAS: And your windows, when you're here, you don't see this house --

CARMELA PUCCI: No.

TERRY DUMAS: -- you see on top of this house --

CARMELA PUCCI: Uhm, we --

TERRY DUMAS: -- and you see three stories and you see down onto our two stories.

CARMELA PUCCI: We actually only see the porch from these houses, because there's no windows here. Like, if we were to come out to our yard, we would see these windows but they can't see into ours.

TERRY DUMAS: I see. Okay.

CARMELA PUCCI: So that we only see the porch in the book. But we would see these two windows right here, would be able to look into our kitchen windows.

AHMED IDRIS: How tall is the building?

CARMELA PUCCI: Excuse me?

AHMED IDRIS: How many stories are

you?

CARMELA PUCCI: It's tow.

AHMED IDRIS: So, you're able to  
see --

CONSTANTINE ALEXANDER: Your  
kitchen's on the second floor?

AHMED IDRIS: This and into that?

CARMELA PUCCI: We -- it doesn't  
block it completely because we see this  
whole back end. So the rear window and  
this window would -- yeah. This --

TERRY DUMAS: So your window's  
inside here?

CARMELA PUCCI: Yes, yes. So it  
faces this. So we only see the porch. So  
I mean we don't have much privacy as it is  
already because of the houses on the side  
of us. And we're -- you know, I know  
plenty of people that live in that  
apartment building, too, and they don't  
complain because it's similar to Cambridge  
Housing. It's owned by an owner. So, I

feel like if you were to ask the residents that live in the building, they probably have a different opinion as opposed to the owner who doesn't live there and who doesn't have to deal with the privacy issue and the windows. So....

TERRY DUMAS: I'm sorry, from this picture, this appears that this house right here is in the same plane with this (indicating). So if you have windows on the back wall here you're looking at this porch, you're not --

CARMELA PUCCI: Yes -- but, we're --no, we're closer to the edge. The windows are closer to the edge and you actually see through this. We can see this.

TERRY DUMAS: Oh, you see through the porch?

CARMELA PUCCI: Yes.

TERRY DUMAS: It's open. Okay.

CARMELA PUCCI: Yes.



TERRY DUMAS: That's what I'm not understanding. Okay.

RUDY BELLIARDI: And the (inaudible).

CONSTANTINE ALEXANDER: Let me ask a dangerous question. We're talking about six windows. If the number of windows were reduced, obviously there's still going to impact on your privacy. And, of course, it depends where the reduced windows are located. Do you envision making your life easier or you might be more sympathetic to the relief being sought? I'm not trying to make pin you down, I'm just trying to --

CARMELA PUCCI: Well, yeah. I mean it depends on the size of the window. I mean this little -- I mean, how little is this window going to be for the stairwell? I mean, if it's just going to be a little tiny window to let light in, I mean do you really, I mean --

TERRY DUMAS: Can you show the elevation of that, Ahmed, so we can see how big it is?

AHMED IDRIS: It's basically three foot, six by two feet.

CONSTANTINE ALEXANDER: I suspect -- I suspect that window is not what the neighbors are complaining about. That's a stairwell window. It's probably never going to be open for one thing. It's going to be closed.

AHMED IDRIS: You can't really see it.

CONSTANTINE ALEXANDER: So, it's really the other two windows that I think are causing you your privacy concerns.

CARMELA PUCCI: Definitely.

CONSTANTINE ALEXANDER: I guess I'm just trying to think -- well.

DOUGLAS MYERS: Why we're making these type of suggestions for people to think about, it might be helpful for one

thing, I was wondering -- I think the stairwell windows are in a class by themselves. I speak for myself. I'm extremely sympathetic to the idea of lighting the stairwell with natural light. But what about somehow covering the -- any large windows that are permitted with louvers or lattice work so to prevent, to interrupt a direct line of vision but still in terms of permitting -- letting in natural daylight, it would be helpful for people inside the building. Yet in terms of people looking out, there definitely would be much less incentive for sustained staring out the window -- it just wouldn't be visually pleasant. And I'm wondering if architecturally without undue burden or expense, some simple louvering like a -- (inaudible) a number of buildings that louvers or lattices.

CONSTANTINE ALEXANDER: I think you see where we're going. I don't know

if whether we'll ever get there or even if we should even go down this road. But we're wondering -- some of us are wondering if there's a potential compromise here, and it may not be, and maybe you're not wishing to pursue a compromise.

AHMED IDRIS: The only issue I have is --

CONSTANTINE ALEXANDER: One at a time.

AHMED IDRIS: This area is so dark already. So adding anything in front of the window, kind of reduce -- you know. Makes the point of getting more light --

CONSTANTINE ALEXANDER: We have to do it one at a time.

BILL EWALL: Can I offer a suggestion?

CONSTANTINE ALEXANDER: Yes.

BILL EWALL: Most of the objections and most of the views I've seen

that's objectionable is this window here (indicating). And that's the one you can see from here, from there (indicating). This one is the most on view to this over here. These two don't seem to be on anybody's view that I can see. This one, very little. If we would simply delete this one, leave that unit dark, would that satisfy people?

CONSTANTINE ALEXANDER: Well, I can't answer that. But that's -- I mean....

BILL EWALL: That's a suggestion.

CONSTANTINE ALEXANDER: That's right. That's where we're going. I'd like to hear -- I'm not going to bind you to this, you're hearing this for the first time. Do you have any visceral reaction to that suggestion?

RUDY BELLIARDI: Yes. The reaction is this: That the argument seems to be that they want more light and we end

up getting less light. And this is --

CONSTANTINE ALEXANDER: Well, the question is whether -- you'd have -- one unit would not get any more -- one wall, one unit would get no more light than it has now. And the amount of light you would lose would be diminished because there's no windows there and it's just the windows in the other part of the structure.

RUDY BELLIARDI: If you look at them -- I mean, I cannot speak for these people again.

CONSTANTINE ALEXANDER: Speak for yourself. I'm not expecting you to speak -- speak for yourself.

RUDY BELLIARDI: I'm speaking just for -- I'm sure they are thinking of this thing as well themselves. But this one, if you look at the various pictures, all of them, they are in view. It's not that they are. I do understand -- we do

understand this -- I, I speak for myself. I do understand the light for the stairs. If it is up there and it doesn't get open. But the other two units, they already have windows. And indeed the window just around the corner from that one, so it's not gonna change much. It's around the corner from the other one. Actually, one unit, I believe the window that they're trying to open is on the balcony. Is on the balcony window. This one. This very window here. It's -- there is a window on the other side already. And right there. If you look at the -- there is another map actually, in there I think.

CONSTANTINE ALEXANDER: I think he has it there.

RUDY BELLARDI: You can keep going.

CARMELA PUCCI: If the window is gonna be on this side --

RUDY BELLARDI: And the one on

the side is gonna be --

THE STENOGRAPHER: One at a time, please.

CONSTANTINE ALEXANDER: Speak one at a time, because she can't hear you.

CARMELA PUCCI: Okay. If this one window on this side also would be going through the porch and into my first floor kitchen. So I --

CONSTANTINE ALEXANDER: Well, I would --

AHMED IDRIS: I'm having a hard time visualizing from the --

CARMELA PUCCI: You can see through the porch and see this whole wall right here.

CONSTANTINE ALEXANDER: One possibility at this stage --

AHMED IDRIS: It's so far, we're talking -- how many feet?

CONSTANTINE ALEXANDER: One thing at this stage is something I raised at the



outset, and you chose not to accept it.

TERRY DUMAS: Right.

CONSTANTINE ALEXANDER: And one possibility is to contin -- I don't know what the views of the other members of my Board are, but to continue the case -- you've heard very vehement objections from the neighbors to see if there's a solution you can come to talking with the neighbors that might be acceptable to them. And then coming back before us with either what you have tonight or maybe some modified compromised proposal that may be acceptable to the neighbors, maybe not. But in any event, it would be different than what you have before us tonight. It's your choice. But again, if we do this, it's not going to -- we're not going to hear this case until September. And there would be no further construction on these -- the other work can be done, it doesn't need zoning relief. But these

windows are not going to be built between now and September. I don't know if other members of the Board have any feeling about whether we should continue the case if the petitioners want or not. Am I going down the wrong path?

TIM HUGHES: I think all this information was out front to begin with. You know. And that if -- I'm sorry you didn't take this opportunity to sit down with your neighbors ahead of time. I don't -- I hesitate to continue the case because it just puts another case on our agenda farther down the road with the same issues. So I mean it's like, it is what it is. Let's, you know, I'm ready to vote for it. Vote on this particular request.

CONSTANTINE ALEXANDER: Tad? We haven't heard whether if they want to continue --

TIM HUGHES: No, I know.

CONSTANTINE ALEXANDER: No, no,

that's fine. But, Tad, what's your view? Are you amendable to a continuance if they want it?

TAD HEUER: I show up whenever people need me to show up and I vote on what they ask me to vote on. I will continue or not continue, but I have no opinion one way or the other.

CONSTANTINE ALEXANDER: Doug?

DOUGLAS MYERS: Brendan hasn't spoken in a while.

BRENDAN SULLIVAN: No, I think I'm not sure if a continuation is going to be of any value to be honest with you.

DOUGLAS MYERS: On the subject, I am generally in favor of trying to reach compromise resolutions. I'm the one that causes the problem with regard to scheduling, but nonetheless, given that if people will talk in good faith and they can pursue some of the avenues that we've discussed here tonight with regard to

continuance, I would support it.

CONSTANTINE ALEXANDER: Well, the question for you, do you want us to put it to a vote to continue this case until September or should we keep going?

BRENDAN SULLIVAN: Or the other option is to go through the rest of the agenda, possibly go in the other room, maybe you can all sit around and then come back to us and say you have agreed to a compromise or you have agreed to disagree. But that at least keeps us in the building for tonight.

TERRY DUMAS: That's fine. I'm happy to do that.

CONSTANTINE ALEXANDER: Neighbors, are you able to stay a little longer to sit down and talk directly with these people?

All right. The Chair moves that this case be recessed until the end of our agenda to give --

JOE BURKE: Could I ask you one question?

CONSTANTINE ALEXANDER: Of course, I'm sorry, you did have a hand up -- go ahead.

JOE BURKE: I just wonder, why does it come under --

THE STENOGRAPHER: Say your name, please.

JOE BURKE: My name is Joe Burke. I'm from Windsor Street in Cambridge.

Why does this come under Special Permit and not variance?

CONSTANTINE ALEXANDER: Fair question. And it's the way our Zoning By-Law works is that if you're -- if you have a non-conforming structure, which they do --

JOE BURKE: Right.

CONSTANTINE ALEXANDER: -- and they're going to add windows in the setback that's not being complied with,

the zoning law just simply says that's a Special Permit case not a variance case.

JOE BURKE: I faced this -- and maybe -- when you say non-conforming, what do you mean by non-conforming?

CONSTANTINE ALEXANDER: When the building was built --

JOE BURKE: Right.

CONSTANTINE ALEXANDER: -- it was in conformance with the Zoning By-Law.

JOE BURKE: Okay.

CONSTANTINE ALEXANDER: -- but somehow the law changed thereafter. So the building is grandfathered in a lay sense. You know, the building that, it came, after the fact became non-conforming -- after the fact it no longer complied with those Zoning By-Law.

JOE BURKE: Right, I understand. Because I saw a case like this before and they had to go through a variance, not a Special Permit. And this was just a

residential home and they were -- because the windows were too close to the line basically, they had to go through a variance. And I don't understand why this came under Special Permit.

CONSTANTINE ALEXANDER: I don't know the case you're referring to. But probably the relief that they needed was more significant than the relief these people need. And that added significance caused the case not to be subject to the Special Permit requirements but the variance requirements.

JOE BURKE: Okay.

CONSTANTINE ALEXANDER: That's all I can tell you.

DOUGLAS MYERS: There may have been construction to the building in connection with the windows as opposed simply to installing windows.

JOE BURKE: Okay.

CONSTANTINE ALEXANDER: This kind

of a case I can tell you is not usual before our Board.

JOE BURKE: Right.

CONSTANTINE ALEXANDER: People seek a Special Permit to add windows.

JOE BURKE: Right.

CONSTANTINE ALEXANDER: So we've had this kind of case before.

JOE BURKE: Okay. It's just -- all right. Okay, that's fine. Thank you.

CONSTANTINE ALEXANDER: Okay. We'll recess the case until the conclusion of our public hearing.

TERRY DUMAS: Can we take this one picture with us, is that all right? And we can bring it back.

CONSTANTINE ALEXANDER: Yes, as long as you bring it back and put it in the file.

RUDY BELLIARDI: They have these already.

(Whereupon, a discussion was



held off the record.)

(8:50 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Douglas Myers, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call Case No. 9797, 34-R Prentiss Street.

The Chair is in receipt of a -- well, the Chair will note that the required posting of the sign was not made on the property which is a prerequisite for us hearing a case. Further, that we have a letter in the file dated June 3rd from the petitioner saying: We received notice of a hearing on our appeal while we were out of the country and we were

therefore unable to pick up the notice and post it. This is to ask to be rescheduled at the next available time.

We don't have a waiver of notice again of course, do we? So the case was not properly advertised. Do we need a waiver of notice?

SEAN O'GRADY: Right.

CONSTANTINE ALEXANDER: Waiver of notice until the time to decide the case?

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: The case is not properly -- we can't even hear the -- in my judgment we can't even hear the case because it wasn't properly advertised.

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: So the clock should not start to run in my judgment.

SEAN O'GRADY: Okay. Yes. Okay. Yes, I'm comfortable either way on that.

CONSTANTINE ALEXANDER: I'll frame the motion to deal with that.

SEAN O'GRADY: Okay.

CONSTANTINE ALEXANDER: When's the next available date?

SEAN O'GRADY: The 13th of August.

CONSTANTINE ALEXANDER: The 13th of August.

The Chair moves that this matter be continued until seven p.m. on August 13th on the condition that the petitioner post the notice that was not posted this time with the correct hearing date, August 13th on the sign.

The Chair further notes that although we would request the petitioner to sign our usual form of waiver of notice for time to decide the case, we regard that a waiver is not necessary in as much as the case was not properly advertised in the first instance.

All those in favor of granting the

continuance, say "Aye".

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is continued.

(Alexander, Hughes, Sullivan, Myers, Heuer.)

(Whereupon, a discussion was held off the record.)

(8:50 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Douglas Myers, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9799, 138140 Larch Road.

Is there anyone here to be heard on that case?

SEAN O'GRADY: Oh, I'm sorry. I gave you the wrong case.

CONSTANTINE ALEXANDER: Did I skip

one?

SEAN O'GRADY: Yes. Cushing Street.

CONSTANTINE ALEXANDER: I'm sorry, I called your case too soon. Cushing Street.

The Chair will call Case No. 9798, 40-42 Cushing Street.

Is there anyone here wishing to be heard?

HEATHER FARIS: Yes.

CONSTANTINE ALEXANDER: Sorry. I didn't mean to push you back.

Okay. You're seeking a variance. No, a Special Permit under a special section of our zoning law, 6.43.5. And this relates to the fact that you want to -- you have less than a hundred feet of street frontage and you want to have two curb cuts. And under our Zoning By-Law, that is not permitted unless the -- we grant a Special Permit that the traffic

and safety would be facilitated by allowing you to have two curb cuts in your hundred -- less than a hundred square feet of frontage. That's introduction. Tell us a little bit about the case because the facts are a little bit unusual.

ROBERT FARIS: We have a driveway which is not on Cushing Street. We have a lot that goes behind two of our neighbors' house.

CONSTANTINE ALEXANDER: I think the point -- this is a case where a picture will speak a thousand words.

HEATHER FARIS: I'm a little confused because we made a submission and it had pictures.

CONSTANTINE ALEXANDER: Yes, we have it in the file.

HEATHER FARIS: Okay, good.

ROBERT FARIS: Anyway, so this is Cushing Street. And that's 89.85 feet. And we have another ten feet on the

Thingvalla. And this driveway here is a part of our property, except that both of these houses have easement, they have a right of way to this driveway. So this is a driveway we can't use. And we have --

CONSTANTINE ALEXANDER: If you add them up, you're a tad under a hundred square feet.

ROBERT FARIS: We have 99.85 feet.

HEATHER FARIS: We have two issues.

ROBERT FARIS: Right.

CONSTANTINE ALEXANDER: And our Zoning By-Law contemplates usually the two curb cuts basically on the same frontage. You have one -- you want to put one here --

ROBERT FARIS: That's right.

CONSTANTINE ALEXANDER: And on a different street --

HEATHER FARIS: Right.

CONSTANTINE ALEXANDER: -- you

have the other the existing curb cut.

ROBERT FARIS: Right.

HEATHER FARIS: And the reason this is here originally is because originally there was a road that went all the way to Belmont Street. So, it also doesn't really relate to where we live. It's hard to park over there and bring your groceries in to the other side of the house.

CONSTANTINE ALEXANDER: One the issues with curb cuts, is that what a curb cut does is it takes public parking and converts it to private parking. Because once you have a curb cut, only you can park or use that curb cut as a driveway. Well, without a curb cut any person, any citizen, can park in that area.

HEATHER FARIS: Right.

CONSTANTINE ALEXANDER: But again in this case, you're not going to be sort of -- and your notion is that you're going



to take away two public parking spaces within a hundred square feet of frontage, or a hundred feet of frontage. That's a bit much in terms of the impact on the public. But again you're talking about only one curb cut on Cushing Street, so the impact is not nearly as severe in my judgment.

HEATHER FARIS: The other thing I didn't submit in the proposal but we are aware of is that the people who live here (indicating), particularly the older couple in the front, she -- this will make it easier for her to back out of her driveway onto busy Cushing Street. Because when we park, our minivans there right on the corner, it's very difficult for her to see around. But if there's a curb cut there and there's nothing blocking her vision back, and because of the way her driveway is angled, she has to back out onto Cushing Street. And it is

-- it is kind of difficult for her. So in some ways this adds to her enjoyment of the neighborhood.

CONSTANTINE ALEXANDER: And I would also note that the curb cut would lead to a parking area that complies with the Zoning By-Laws. It would be 33 feet deep. And given where that 33 feet is relative to your structure, that would be permissible in our Zoning By-Law. You're not parking in the front yard. You're going to be parking on the side of the house.

HEATHER FARIS: Right.

CONSTANTINE ALEXANDER: At least that's how it's laid out on the plans.

ROBERT FARIS: Right.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TAD HEUER: I have one. So, on the the plan that has the asterisk about the right of way --

HEATHER FARIS: Yes.

TAD HEUER: You technically could, am I correct, remove the fence, use the right of way to access the back of your property and park there? So it's not a legal prohibition, it's just convenient; is that right.

HEATHER FARIS: That's right. Yeah, it would mean sort of driving all the way, making the driveway -- making the parking space all the way in the back all the way across the yard.

TAD HEUER: Right.

HEATHER FARIS: -- just because of the way the yard is configured.

ROBERT FARIS: It's also just not nice to the neighbor either. The driveway is really a foot from her house as well.

TAD HEUER: Right.

ROBERT FARIS: We'd prefer not to drive there at all.

TAD HEUER: Right. Oh, I mean,

when you look at her property it appears as though that continues with hers and it is hers because of the way the fence runs around the back.

HEATHER FARIS: Right.

TAD HEUER: I understand that. I just wanted to make sure it wasn't an issue that it was entirely impossible to do it. It was just an issue that would be accepting and there would be a hardship because of the front yard setback.

ROBERT FARIS: Right. I couldn't have said it better.

TAD HEUER: And for the front yard curb cut, you have a driveway that's immediately next to your neighbors; is that right? So there's an asphalt driveway for the condos 30, A, B and C.

HEATHER FARIS: Yes.

ROBERT FARIS: That's right.

TAD HEUER: I didn't see anything in the file about their -- have you spoken

with them?

HEATHER FARIS: Yes, I went around the neighborhood and got signatures from everybody. Everybody was completely in agreement on it. Here's -- I think I submitted this in the file, but 32, there should be three signatures from 32. There's Ava Robin Cohen and Tony and Trudy Hoffman and Debra and Bruce Irving. Nobody -- I actually went to -- I went across the street. I went next-door, behind and nobody opposed this idea.

TAD HEUER: Okay.

DOUGLAS MYERS: Question?

CONSTANTINE ALEXANDER: Go ahead.

DOUGLAS MYERS: Would you just -- maybe I'm just not following. Would you point if you can on this plan to show me how you now access your property from Cushing Street if you do?

ROBERT FARIS: We park on the street.

DOUGLAS MYERS: Park on the street?

ROBERT FARIS: Yeah.

DOUGLAS MYERS: I see. Completely.

TAD HEUER: Here, this photograph.

ROBERT FARIS: There's no driveway on the front.

DOUGLAS MYERS: So you have no vehicular access into your property from Cushing Street.

HEATHER FARIS: No.

ROBERT FARIS: That's correct.

CONSTANTINE ALEXANDER: Well, I guess you do from the street.

HEATHER FARIS: Not through Cushing.

TAD HEUER: No, you'd have to take out the fence.

DOUGLAS MYERS: Thingvalla you're blocked by the fence.

HEATHER FARIS: Thingvalla, yeah.

And Thingvalla is a one way street this way so it's not very convenient.

DOUGLAS MYERS: Thank you.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

Is there anyone here who wishes to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair will note for the record that the petitioner has submitted to us on the City of Cambridge form of application for driver cuts and openings abutters form, that there is approval for the project from the owners at 41 -- 43 Cushing Street, 41-B Cushing Street, 32C Cushing Street, 50 Cushing Street, 41A Cushing Street, and what appear to be 39 Cushing Street. And that's it.

Ready for a motion?

The Chair moves that a Special Permit be granted to the petitioner to

allow the two curb cuts on the property with less than a hundred feet of frontage, street frontage, on the grounds that it appears that the requirements of this ordinance could not and will not be met. And I think that's clear because you don't have a hundred square feet, that would be necessary for two curb cuts.

That traffic generated or patterns of access and egress would cause congest -- well, that there would be no congestion, hazard or substantial change in established neighborhood character or with regard to traffic generation or patterns of access or egress to be granted due relief.

That granting you relief would not adversely affect the development of adjacent properties.

That granting you the relief would not create nuisance or hazard to the detriment of the health, safety and



welfare of the occupant or the citizens of the city.

And on the grounds that allowing you to have these two curb cuts would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance.

On the further basis that granting this relief would actually facilitate traffic and safety because it would allow off-street parking of a minor nature to occur. Thereby freeing up some of the -- lessening some of the parking issues on the street in the sense that one car would be off the street, although that car or that -- there would be less space for other people to park on the street. Nevertheless it would be one car off the street.

Further, the Chair notes that this petition is being supported by all of the

abutters. There's no letter in opposition. There's no evidence of any opposition.

The Chair would further note that the relief being sought is a very slight relief because of a matter of inches of failing to comply with our Zoning By-Law.

The Special Permit would be granted on the basis that the work with regard to the curb cuts would proceed in accordance with this plan that you submitted to us which I will initial. And that includes a parking area of the 33 square feet -- the 33 feet of parking.

All those in favor of granting relief, granting the Special Permit, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Heuer.)

HEATHER FARIS: Thank you very much.

(Whereupon, a discussion was held off the record.)

HEATHER FARIS: The next thing we do is move forward --

SEAN O'GRADY: Wait a little while until you get a letter from us in about six weeks telling you your next step which is to record your document. Once you have a recorded document, you can bring that and the curb cut addition.

HEATHER FARIS: Okay. The two documents that I handed to the gentleman, can I those returned?

SEAN O'GRADY: You can't. You can come down and get copies whenever you'd like.

HEATHER FARIS: The ones that I just gave him from my file? Because I think you already had a copy of --

CONSTANTINE ALEXANDER: We have a

copy of the plan. We don't have anything from the abutters, though. That's our only copy.

HEATHER FARIS: Really? I think they're in there. That's my original.

CONSTANTINE ALEXANDER: I'll have to initial something else in the file. You can have this back.

(Whereupon, a discussion was held off the record.)

(9:00 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Douglas Myers, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair calls Case No. 9799, 138-140 Larch Road.

Is anyone here wishes to be heard? You've been here already once before. We sent you a way and now you come back.

DAVID DAVIS: Thank you. David Davis, petitioner. Owner with my wife at

138-140 Larch Road since approximately 1980. And reside there. We live upstairs. We rent the unit downstairs which has the original bathroom which dates from approximately 1926. And I mean original to that period. And by any standards it's old. It needs to be renovated. However, it is very small. It is very uncomfortable in its size. It makes an apartment which is otherwise really quite remarkably workable where there are small bedrooms. It makes a -- it doesn't work for this apartment. Because in a way I guess I speak personally when I say it's an embarrassment. I guess that's not a good word necessarily to use here. But when we were able to upstairs some years ago, and I can't tell you, we pushed out on the second floor per this photograph which you may have. I don't know. And our bathroom is the one that pushes out. Now, that's

about four by six feet.

CONSTANTINE ALEXANDER: When was that done?

DAVID DAVIS: I'm going to say 15 years ago. Did not -- apparently only needed Bruce Thayer or somebody. Who's name I'm assuming is --

SEAN O'GRADY: Before my time.

DAVID DAVIS: Is he?

SEAN O'GRADY: No, no, I know Bruce.

DAVID DAVIS: He did it.

And it's interesting how that 24 square feet in that bath -- same bathroom is far more than the addition on the third mount. It feels just like a real bathroom as opposed to let's call it a water closet, which is maybe what they call the one that we have. So, you can see where I'm going. I'm trying to be able to finally take this down to the ground, put a foundation in and carry this down and

expand the bathroom.

CONSTANTINE ALEXANDER: But you're not pushing -- the bathroom below would be a straight line from the second floor --

DAVID DAVIS: In other words, it would be a continuation of this -- nothing would be --

DOUGLAS MYERS: In every respect.

DAVID DAVIS: Yes.

DOUGLAS MYERS: It would need to be completely congruent underneath --

DAVID DAVIS: Yes. Absolutely. No expansion. No --

CONSTANTINE ALEXANDER: And the issue you have is right now you're -- your legal zoning point of view is that --

DAVID DAVIS: We're non-conforming.

CONSTANTINE ALEXANDER: You're non-conforming as to both FAR and setback.

DAVID DAVIS: I think we have the set --

SEAN O'GRADY: I don't remember.

DAVID DAVIS: Oh, dear. I think we have the setback.

CONSTANTINE ALEXANDER: Well, it's a front.

DAVID DAVIS: We have a setback, I'm pretty sure of that.

SEAN O'GRADY: Is this a driveway I guess?

DAVID DAVIS: No, no, no, no.

CONSTANTINE ALEXANDER: This is the left side or the right side?

DAVID DAVIS: Facing the house it's on the right side.

CONSTANTINE ALEXANDER: Okay. This structure is non-conforming in other respects.

DAVID DAVIS: Only the FAR.

CONSTANTINE ALEXANDER: Some other aspects of the house you don't meet the setback requirements. Not the side that you're talking about, according to your



form anyway. But, okay. I don't want to belabor that.

DAVID DAVIS: Okay. We haven't changed -- there's been no other change to the house. I mean, we haven't changed -- I mean, we've changed within the shell of the house, but we haven't done anything else. I think that's --

CONSTANTINE ALEXANDER: That's all she wrote.

DAVID DAVIS: Oh, I should say, yes, I've spoken to all my neighbors.

CONSTANTINE ALEXANDER:  
Particularly the one that's on the lot across the --

DAVID DAVIS: Oh, sure. I've been talking about this for ten years. And they are all neighbors for that time. And they were all very sweet about getting a notice. And I've spoken to all of them. I've spoken to eight of them.

CONSTANTINE ALEXANDER: And your

representation is you've spoken to all of them and they have no objection.

DAVID DAVIS: Well, to the extent that I've spoken to the wife. I assume she's spoken I haven't spoken to the husband and wife.

DOUGLAS MYERS: When you extend the existing addition all the way to the ground --

DAVID DAVIS: Correct.

DOUGLAS MYERS: -- are you going to clear the bulkhead?

DAVID DAVIS: Oh, the bulkhead will be moved further down the way. Further down the foundation. Yeah. I mean, I have --

DOUGLAS MYERS: Does the bulkhead have access to your basement, to the cellar?

DAVID DAVIS: Through the bulkhead.

DOUGLAS MYERS: Would that be a

new entrance to your --

DAVID DAVIS: We take that bulkhead and push it down further. So it will be less visible because it would be hidden by the profile of the structure. This is the existing and this is the --

CONSTANTINE ALEXANDER: We have these plans in our file.

DAVID DAVIS: Oh, okay.

CONSTANTINE ALEXANDER: No, no, no. That's not my point. When we get to making a motion, it's going to be tied to certain plans. And I want to make sure that the plans that we're going to tie the motion to are the plans that you're going to build with.

DAVID DAVIS: That is correct. Except if I may, this is the plan that we are wedded to at the moment, but -- which shows if --

CONSTANTINE ALEXANDER: That's the interior. We're not interested in the

interior.

DAVID DAVIS: No. Yes, absolutely the exterior --

CONSTANTINE ALEXANDER: Absolutely the exterior, these are the plans?

DAVID DAVIS: That's correct. That is correct.

CONSTANTINE ALEXANDER: Questions from members of the Board?

TIM HUGHES: No.

CONSTANTINE ALEXANDER: Anyone here in the audience wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

As far as I can tell, there are no letters in the file or any other communications. So, unless there's further discussion, we can -- ready for a motion. Ready for a motion?

DOUGLAS MYERS: We are.

CONSTANTINE ALEXANDER: The Chair moves that a variance be granted the petitioner to allow the construction of this first floor bathroom on the basis that a literal enforcement of the provisions of this ordinance would involve a substantial hardship to the petitioner. Such hardship being that a non-conforming structure, the petitioner is left with an inadequate first floor bathroom, and that the hardship is owing to the shape of the structure. Namely, it's a non-conforming structure that predates our Zoning By-Law I suspect. And that desirable relief may be granted without substantial detriment to the public good.

The Chair noting that the support for this from the -- at least there's no objection to the proposal from abutters. That all that is being done is a continuation of the building. The

exterior of the building from the second floor to the first floor. So, drawing a straight line down, if you will, with no increase to the footprint of what's on the second floor.

This variance would be granted on the basis that the work proceed in accordance with the plans submitted by the petitioner and initialed by the Chair. There are 1, 2, 3, 4, 5, 6 in nature. Such -- I'm going to initial all six plans, but the only ones that applicable to our relief affects the exterior of the structure. We're not concerned with the interior of the structure.

DAVID DAVIS: But that would include -- I mean, the placement of a window is not in your -- is that within your --

CONSTANTINE ALEXANDER: No, if you got a window, that window better be on these plans.

DAVID DAVIS: That window is on that plan, but that window I will say is off center, and I'm trying to make it aesthetically more workable, but we would have that when we sought our building permit. But the idea is to -- we want to make this look right.

CONSTANTINE ALEXANDER: I understand. But our problem is that this is the time to get it done right. And we like -- see, the Building Department is going to -- when you go for your building permit, they're going to pull out the plans and they're going to look at what you want to do and see if it complies with what the Board looked at and what was approved. You're telling me what we're not --

BRENDAN SULLIVAN: Where is the window going in? Is it part of this extension?

DAVID DAVIS: Well, there's a

window -- there's an existing window for the -- yeah, there would be a bathroom window.

CONSTANTINE ALEXANDER: Bathroom window.

DAVID DAVIS: But the draftsman put it off center, which I think is aesthetically unappealing, and I want it centered.

CONSTANTINE ALEXANDER: Are you going to decrease the dimensions of the window?

DAVID DAVIS: No.

CONSTANTINE ALEXANDER: I'm okay. If it's just a matter of centering the window.

DAVID DAVIS: Yeah.

CONSTANTINE ALEXANDER: For the record, on the basis that it's set in accordance with the plans that I'm initialing.

DAVID DAVIS: Yes.



CONSTANTINE ALEXANDER: Provided further, though, that you have the right to relocate the window as shown in these plans provided that you do not increase the size of the window. Window. Sufficient for you?

DAVID DAVIS: Yes.

CONSTANTINE ALEXANDER: All those in favor of granting relief, so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted. I will initial these pages.

(Alexander, Hughes, Sullivan, Myers, Heuer.)

BRENDAN SULLIVAN: I would make some note just to say window size of proposed allowed location may vary or something.

DAVID DAVIS: Thank you.

BRENDAN SULLIVAN: Just so Sean

when he reviews it, doesn't have to go through the whole transcript.

SEAN O'GRADY: Thank you.

BRENDAN SULLIVAN: I'm sure he'll remember this anyhow.

(Whereupon, a discussion was held off the record.)

(9:10 p.m.)

(Sitting members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Tad Heuer, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call Case No. 9800. 80-84 River Street/ 50 William Street.

Is there anyone wishing to be heard on this matter? Please come forward. And as Mr. Goldberg certainly knows you need to state your name and address for the record or anybody who is going to speak.

ATTORNEY BERNARD GOLDBERG: Yes, Attorney Bernard Goldberg, 620

Massachusetts Avenue in Cambridge.

JATINDER SHARMA: Jatinder Sharma, architect. 48 Linden Place, Brookline, Massachusetts, 02445.

MOHAN SINGH: Mohan Singh, trustee of 80-84 River Street and 50 William Street.

CONSTANTINE ALEXANDER: Mr. Goldberg, the floor is yours.

ATTORNEY BERNARD GOLDBERG: Yes. Mr. Chairman and Gentlemen, I'm here representing the petitioner Mohan Singh. Certainly some of you know him and heard my presentation maybe a year ago with regard to 45-47 William Street. It was a long arduous hearing.

CONSTANTINE ALEXANDER: Yes, it was I'll confirm that.

ATTORNEY BERNARD GOLDBERG: And at the end it was successful thanks to you. And the city was successful in that he has put up a structure that is -- certainly

maintains the facade type of roofing and also painting and building it, certainly that is enjoyable to the neighbors and has the full support of the neighbors at that particular moment in time.

This particular property is across the street. It's 40 -- it's 50 William Street and River Street.

MOHAN SINGH: It's the corner.

ATTORNEY BERNARD GOLDBERG: And if you're aware, it's the corner of William and River Street. And it's an ugly building.

CONSTANTINE ALEXANDER: I agree with you.

ATTORNEY BERNARD GOLDBERG: And it's the intention of Mr. Singh to improve that building in accordance with the same use that he did on William Street previously.

Certainly the neighbors are in favor of this as they were in favor of his

previous endeavor. And at this moment in time I would like to tell you of the hardship that he is suffering as a result and what you need to have proven to you relative to --

CONSTANTINE ALEXANDER: Just before you do that, just tell me exactly the nature of the zoning relief you're seeking. I know you're seeking a variance.

ATTORNEY BERNARD GOLDBERG: Yes.

CONSTANTINE ALEXANDER: What requirements are you seeking?

ATTORNEY BERNARD GOLDBERG: Well, there are five variances we're seeking.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY BERNARD GOLDBERG: It's the floor area ratio, the lot area, parking, open space and --

JATINDER SHARMA: Setbacks.

ATTORNEY BERNARD GOLDBERG: That's right.

CONSTANTINE ALEXANDER: I'm having a little problem, for example, in the setbacks your form doesn't show any change in setbacks. So, why do you have a problem with setback?

JATINDER SHARMA: Setback it does not comply with the Zoning setbacks required. In other words, we are not modifying any footprint of the building, but the required is 20, more than 20 feet away from the back side.

CONSTANTINE ALEXANDER: You're not changing the footprint of the building, though, are you?

JATINDER SHARMA: No.

CONSTANTINE ALEXANDER: What by height?

JATINDER SHARMA: We're not changing the height either.

CONSTANTINE ALEXANDER: I saw something in the file about the rear, you're going to change the --

JATINDER SHARMA: Okay. That I can tell you that's a little volume change. I made a quick sketch here. Actually, it's a bedroom in the back of the building, and that -- the existing is about 60, 70 inches of the level. So the existing floor is a difference of 14 inches. What I'm trying to do is bring the back bedroom to the same fast forward elevation. By doing so, there's a 14-inch difference. So I raise the room. There is a leaning roof, and that is about maybe three to six feet floor. Simply I'm raising the front of the roof, that is a little triangle of volume about 90 square -- 92 feet. So, other than that the roof line stays the same as existing. Only the lean to roof is a little --

CONSTANTINE ALEXANDER: I'm just trying to understand. You need zoning relieve for that part of the construction?

SEAN O'GRADY: Yes, that piece

itself is in the setback so it's just a little more volume in the setback and that triggers the variance.

CONSTANTINE ALEXANDER: Okay. You mentioned parking. Clearly there's an issue in parking, because you need one unit -- from a zoning point of view. You need one unit of parking space for every unit, and you're going to have -- you're proposing five. And so therefore you will need five parking spaces and your form says you're only go to have three.

JATINDER SHARMA: Yes. The existing -- here. We didn't have a plot plan but I took it from the Assessor's office. And this is the existing three parking --

CONSTANTINE ALEXANDER: And you're going to maintain those. But you're required to have two more if we allowed you. I just want -- I'm not arguing with you, I want to frame the issues that's



all.

JATINDER SHARMA: Thank you.

Actually, I was thinking at one point or another this is the driveway, this is the existing driveway, but those would be tandem parking and I know that's not, that's a no-no, so I did not ask for that. That's why I said okay, we'll keep it three.

CONSTANTINE ALEXANDER: So one issue is parking. I'm going through in my mind what the most significant Zoning issues are. Parking is one. There's also lot area for each dwelling unit.

JATINDER SHARMA: Yes, sir.

CONSTANTINE ALEXANDER: You're required under the Zoning Law to have at least 1500 square feet.

JATINDER SHARMA: Exactly.

CONSTANTINE ALEXANDER: According to your form, at least, is you're going to have 986 square feet.

JATINDER SHARMA: Yes, if I write that one, and that is -- actually it is not possible due to the fact that you see building is, the building is divided into two by these existing staircase. I'll show you the second floor here.

CONSTANTINE ALEXANDER: Okay.

JATINDER SHARMA: Anybody try to go for three apartment every time from one side to another side if they have to approach they have to go through this common area. And that is no one is going to buy it, the unit with that kind of thing. And beside that, to do that, if I redesign it, I have to cut everything out and now this is all existing three-story structure here. I'm not really sure this is a single wall or a double wall. And that might need an under paning wall or structural support so that would be it.

CONSTANTINE ALEXANDER: Just a comment. Suppose you have four units

rather than five units, just suppose for a second. That would reduce -- you still need a variance on the parking. Four units, but you're closer to complying with the Zoning By-Law. What about the lot area per square foot?

JATINDER SHARMA: The present is as I said, you know, from seven, 700 to 1500 square feet. And with this kind of layout with the existing condition, it's very hard to leave that 900 or 1500.

CONSTANTINE ALEXANDER: So are you suggesting another way that you can go gut the entire building but that makes the project too expensive?

JATINDER SHARMA: Yes, sir. Because you know, it's also adjoining and it's the same wall, three-story wall and that becomes a big task. If anything happened, we would open ourselves to litigation. And plus --

CONSTANTINE ALEXANDER:

Litigation?

JATINDER SHARMA: I mean if we break their wall or everything falls.

CONSTANTINE ALEXANDER: The abutters?

JATINDER SHARMA: Yes.

And beside that to do support three-story structure would be very, very expensive.

BRENDAN SULLIVAN: It's an existing rooming house now?

MONAH SINGH: Yes.

ATTORNEY BERNARD GOLDBERG: Eleven rooms.

MONAH SINGH: It's approved for eleven rooms, existing lodging house.

BRENDAN SULLIVAN: So, at one point there was potential of 11 occupants. Under the format, it basically allows three units, three apartments. You have three parking spaces, the numbers come up to three. What you're asking is the three

-- convert the building to three units doesn't really work. Economically, space-wise, whatever it may be, five units are more suitable to the building, No. 1. More marketable because they could be smaller units than a building of three, and hence more desirable. Is that it in a nutshell?

ATTORNEY BERNARD GOLDBERG: In a nutshell. Thank you.

JATINDER SHARMA: Otherwise every time they are to go from one side to another, you go through the common area of stairs, unlock one door and unlock another door.

BRENDAN SULLIVAN: Without reinventing the wheel and getting crazy money to try to rehab the building, it works for five. It doesn't work for three. Hence proposal.

JATINDER SHARMA: And the building is identified as (inaudible) an interior

and exterior. We are going to refinish, modify to have it more aesthetically pleasing to the neighborhood itself.

CONSTANTINE ALEXANDER:

Mr. Sullivan may have stolen your thunder in terms of -- but go right ahead.

ATTORNEY BERNARD GOLDBERG: Well, no, there's no need of my repeating it, because it was explained by Jatinder and also explained by the member of the Board relative to what we're thinking of doing and why we can't do what we would ordinarily want to do.

CONSTANTINE ALEXANDER: Nothing more you want to add at this point?

ATTORNEY BERNARD GOLDBERG: No, no.

BRENDAN SULLIVAN: Wise man.

CONSTANTINE ALEXANDER: Any Board members want to ask questions before we open it to public testimony?

TAD HEUER: Can you point out

where the fifth unit is, because I see 1, 2 and 3 and 4?

JATINDER SHARMA: Oh, okay. The attic.

TAD HEUER: Oh.

JATINDER SHARMA: Attic. It seems there are two stairs back-to-back and then that's the only place. I cannot divide two rooms on one side and two on the other so I made all four one unit.

TAD HEUER: There's a landing here.

JATINDER SHARMA: Yes, exactly. So inside is like a private for them, you know, they can go either side. Otherwise if I try to divide, it becomes --

TAD HEUER: And Unit 4 appears to be in the same -- this is just going to the Chairman's question, Unit 4 seems to be in the same footprint essentially as Units 1 and 2 share except 4 above.

JATINDER SHARMA: Yes.

TAD HEUER: And Unit 2 takes a bedroom in the back.

JATINDER SHARMA: In the back. That's the one I tried to bring the same level otherwise it would be too inconvenient.

TAD HEUER: But conceivably it's possible truly. Especially if those were on the ground floor and Unit 4 is contiguous above them, you could have a very large Unit 1, correct, on the ground floor? If I could have a 1, 2 -- you could have a three-bedroom type unit if you merge Units 1 and 2, right? That would be just very big.

JATINDER SHARMA: Yeah. I mean, no, you see what happens is, coming to here, to make all this one unit --

TAD HEUER: Yes.

JATINDER SHARMA: That is little --

TAD HEUER: How much space is



that?

JATINDER SHARMA: That would be, that would be more than 18.

TAD HEUER: 1800? Okay. All right. That's understandable. I just didn't know if it was possible going to his question about making it getting down to four if that was something you would consider. It sounds as though you have -- okay.

DOUGLAS MYERS: What is the situation with parking with five units?

JATINDER SHARMA: We have existing three. And the reason we were asking for the fifth there is relief if we can get on the parking. The tandem is not allowed. If I go over tandem, yes, I can get five parking because the driveway is about 90 feet long. So with 18, 18, 18 I can get three on one side and two on the other side.

CONSTANTINE ALEXANDER: You could

seek a variance for parking. But on the other hand, you'd be backing out into a really busy area. So that's why tandem parking may not work on this site. Maybe it would work someplace else.

On the parking issue for me there's two considerations. One hand parking may be problematical for people who reside in this building because you're located on the corner of River Street and William Street and there's not a lot of on-street parking. On the other hand, you're talking about a relatively small apartment and you're talking about being close to Central Square --

JATINDER SHARMA: Yes.

CONSTANTINE ALEXANDER: -- where there's public transportation which mitigates the need for parking. To me those are the issues you sort of balance.

MONAH SINGH: And also we are reducing the crowd. Instead of eleven

people living there, we making it to five.

CONSTANTINE ALEXANDER: True. But On the other hand, from a rooming house, I don't think you're going to have too many people -- well, maybe you have a car.

MOHAN SINGH: I have been running the rooming house from last 24 years, it's very tough to manage that now.

CONSTANTINE ALEXANDER: Have there been -- in the 24 years have there been parking problems in the street?

MOHAN SINGH: Not in my area because River Street is a commercial street, and that has a lot of meter parking there. Front of that. So another street, other side is all the neighborhood, you know, nobody come from outside. So, we didn't have it that much problem, but I don't think so, you know, because in the future there not going to be any problem.

JATINDER SHARMA: It's not that

big -- too big a unit, you know, where you can see everyone will have a car. The studios especially, as you said it properly, near the Central Square is within walking distance.

CONSTANTINE ALEXANDER: Other questions from members of the Board?

TIM HUGHES: What was the open space issue?

JATINDER SHARMA: The existing open space regarding the zoning is 30 percent. We have about 13 because of the -- because of the existing lot size is so narrow.

CONSTANTINE ALEXANDER: The point is you're not reducing the open space.

JATINDER SHARMA: No, I'm not.

CONSTANTINE ALEXANDER: In other words, it's not changing the footprint, therefore it's non-conforming, it's open space now. It would be no worse afterwards.

JATINDER SHARMA: That's the reason I was losing two parking spaces and giving more like a green space. And the landscape. In this building will also be a sprinkler.

TAD HEUER: Are you expecting to deed the parking to specific units or is it going to be first come first serve for the five fighting it out?

JATINDER SHARMA: That will be the person who can --

CONSTANTINE ALEXANDER: Perhaps you haven't decided that.

ATTORNEY BERNARD GOLDBERG: No. If you recall, we have -- when we got curb cuts on the other property across the street and we're limited in that regard to the two units on the first floor because of the requirement that the windows --

CONSTANTINE ALEXANDER: Yes. The cantilevers.

ATTORNEY BERNARD GOLDBERG: So I

don't expect it, but something will be arranged and perhaps in renting it, people will know that they'll have to find something off the street because there's only three available.

CONSTANTINE ALEXANDER: And just to be clear, these plans we have now, these are the plans?

JATINDER SHARMA: Yes, sir.

CONSTANTINE ALEXANDER: So if we were to grant you the relief, it's going to be to build in accordance to those plans --

JATINDER SHARMA: No, no.

CONSTANTINE ALEXANDER: -- you're going to have to come back before us.

JATINDER SHARMA: The only thing I add to this is the sprinkler system.

CONSTANTINE ALEXANDER: Well, that doesn't concern us from a Zoning point of view.

DOUGLAS MYERS: And again maybe

I'm just having trouble understanding, and if so, I apologize. But how many parking spaces are shown on the plans?

JATINDER SHARMA: Three.

DOUGLAS MYERS: For a five-unit project, three are shown?

ATTORNEY BERNARD GOLDBERG: One for each unit of parking. So we're asking for a variance that they allow the three.

DOUGLAS MYERS: I'm still confused.

CONSTANTINE ALEXANDER: I got the answer. Basically right now there are three parking spaces on the lot.

DOUGLAS MYERS: Right.

CONSTANTINE ALEXANDER: Those three will be maintained.

DOUGLAS MYERS: Right.

CONSTANTINE ALEXANDER: However, if they have five units, they have to, by the Zoning Law, have five parking spaces.

DOUGLAS MYERS: Right.

CONSTANTINE ALEXANDER: That's the issue. The variance to go from five to three.

DOUGLAS MYERS: How many parking spaces are shown on the plan?

CONSTANTINE ALEXANDER: Three.

DOUGLAS MYERS: Where will the other two?

CONSTANTINE ALEXANDER: There won't be. They wants the variance not allow them to not have the other two.

DOUGLAS MYERS: Oh, oh, I see to waive it.

CONSTANTINE ALEXANDER: No other further questions from members of the Board?

I'll put it open to public testimony. Anyone wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.



There is only, I can see in the file, one letter. It's from a Richard Conti, C-o-n-t-i at 81 Cushing Avenue, Belmont.

"As an abutter, owner of 41 William Street, I would like to indicate my support of the proposed petition. The proposed changes would add considerable benefit to the neighborhood similar to the changes implemented to Mr. Singh -- excuse me, in the past to another similar building on William Street. I hope the variance will be granted."

ATTORNEY BERNARD GOLDBERG:

Mr. Chairman, I do have additional support endorsements.

CONSTANTINE ALEXANDER: The Chair notes that we received a petition in support. It says: The undersigned neighbors of 80-84 River and William Street are in favor of the application for a variance by Mohan Singh to convert the

rooming house at 80-84 River and William Street to five apartments with the understanding that there will be modification and refinishing as needed.

What's that supposed to mean?

ATTORNEY BERNARD GOLDBERG: Well, everything is done inside. Nothing -- except for the siding, the fire extinguishers.

CONSTANTINE ALEXANDER: Okay. Inside. There's no modification of the exterior.

ATTORNEY BERNARD GOLDBERG: No, no.

CONSTANTINE ALEXANDER: Refinishing. It's going to be repainted, okay.

ATTORNEY BERNARD GOLDBERG: Painting.

CONSTANTINE ALEXANDER: Okay. It's signed by people whose address given is 89 River Street, 75 River Street, 75

River Street, 90 River Street, 94 River Street, 46 William Street, 98 River Street and 45-47 William Street.

Discussion among members of the Board or are we ready for a motion?

The Chair moves that a variance be granted to the petitioner to allow the conversion of this rooming house to a five unit apartment.

The variance will be granted on the basis that a literal enforcement of the provisions of the ordinance would involve a substantial hardship to the petitioner. The hardship being that this is an older structure, not in the best of condition, and that unless we allow relief, it would be very difficult to restore this structure to something that would be attributing to the welfare of the community to a more pleasing structure.

The hardship relates to the basically the shape of the land and the

lot as well. It's an odd shaped lot on the corner of William and River Street. And it is a non-conforming structure, making it very difficult to comply with the Zoning By-Law.

And the relief may be granted without substantial detriment to the public good.

The Chair would note that what is being proposed here will add five dwelling units, full dwelling units to the housing stock of the city.

That the appearance of the structure and, therefore, the impact on the city would be enhanced by what the petitioner is proposing.

That there is no further -- that there is no public opposition to what is being proposed. In fact, there is support from neighbors and abutters.

This variance would be granted on the condition that the work proceed in

accordance with the plans submitted by the petitioner and initialed. Although the cover page will be initialed by the Chair. They are plans prepared by JS Associates, 48 Linden Place in Brookline. There are 1, 2, 3, 4, 5, 6, 7 pages. And in addition, and in concordance with a map showing parking spaces submitted by the petitioner. And a further diagram of a partial section of the first floor rear bedroom.

So these -- I'm going to initial all of these and these will be what you have to comply with as you go forward with the project. And if you deviate, you're going to have to come back before us. Understood?

On that basis, the Chair moves that the variance be granted. All those in favor, please say "Aye".

(Aye).

CONSTANTINE ALEXANDER: Five in

favor. Motion grand. Good luck.

(Alexander, Hughes, Sullivan,  
Myers, Heuer.)

(Whereupon, a discussion was  
held off the record.)

(9:35 p.m.)

(Sitting members: Constantine Alexander,  
Tim Hughes, Brendan Sullivan, Tad Heuer,  
Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair  
will call case No. 9801, 60 Standish  
Street.

Is anyone here wishes to be heard on  
that? Please come forward. As you  
probably heard, you need to give your name  
and address for the record.

KATHERINE JAFFE: Sure. I'm  
Katherine Jaffe, 60 Standish Street,  
Cambridge.

DOUGLAS OKUN: I'm Douglas Okun.  
I'm an architect, 156 Mount Auburn Street,

Cambridge.

EUGENE JAFFE: Eugene Jaffe, 60  
Standish Street.

CONSTANTINE ALEXANDER: I'm just  
looking for the plans -- do you have the  
plans that we're going to be passing on in  
the file? Do you have an extra set by any  
chance? I can use these. Is this what  
you have?

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: Okay.  
These would be sufficient for our hearing.  
Go right ahead.

DOUGLAS OKUN: That's it right  
there. You have it. The little plan that  
you're putting your paper on. There.

CONSTANTINE ALEXANDER: That's the  
interior though?

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: We're not  
as concerned with the interior from a  
zoning point of view. The exterior.

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: And I think the relief you're looking for is pretty straight forward. I think to me at least the significance to the community, it may be greater than it would appear but we'll get into that.

DOUGLAS OKUN: Okay.

CONSTANTINE ALEXANDER: Not related to your property, but the kind of precedent we may be setting tonight if we grant you relief. But please explain. Go ahead.

DOUGLAS OKUN: Well, Gene Jaffe has owned the building for a long time and this is his daughter-in-law Katherine. And they wish to, for the most part, do -- the porches are in bad shape. They need repair. And they would like to take advantage of the repairs to add the space of these two porches to the living quarters of the second and third floor.



CONSTANTINE ALEXANDER: And the result by doing that you're going to increase the FAR. Right now -- and that's why you're here for zoning relief?

DOUGLAS OKUN: Correct.

CONSTANTINE ALEXANDER: And right now the district has a max of .5.

DOUGLAS OKUN: Correct.

CONSTANTINE ALEXANDER: And currently the FAR is .756. And if we were to grant your relief, i.e. enclosing the porches, you would go to .78. So, it's a slight increase.

DOUGLAS OKUN: Very slight.

CONSTANTINE ALEXANDER: But you're 50 percent over what is permitted in the district for FAR.

DOUGLAS OKUN: I understand.

CONSTANTINE ALEXANDER: And if I may speak for the Board, that is the issue, the FAR increase. Not the rebuilding of the porch. It's the

enclosing of the porch that we have to deal with.

DOUGLAS OKUN: Well, we've toured the neighborhood and we find that quite a few others have been enclosed. And I haven't seen any that are visually detrimental. And as a person who has a porch at my house, it's kind of a nightmare in the city to maintain. It's all full of dirt, snow, rain, squirrels and the like. And we've tried to do a good job of giving them some light and windows and making the appearance.

CONSTANTINE ALEXANDER: Do you have a copy of it. I'll take what's in the middle, that's just panels now and you can't see in or out.

DOUGLAS OKUN: Yes. These are for privacy and then these are high windows to get light in the room, yes.

CONSTANTINE ALEXANDER: When you say privacy -- is that a -- no, no, I'm

sorry, in the middle. This is going to be open?

DOUGLAS OKUN: No, a panel.

CONSTANTINE ALEXANDER: Panel.

Just a pane. A wood panel, right? So the light that comes in --

DOUGLAS MYERS: Opaque?

CONSTANTINE ALEXANDER: Opaque.

DOUGLAS OKUN: Yes, that's the way it is in the drawing, yes.

CONSTANTINE ALEXANDER: Is it glass?

DOUGLAS OKUN: No.

CONSTANTINE ALEXANDER: No. Wood?

DOUGLAS OKUN: The panels are wood.

CONSTANTINE ALEXANDER: So it's like the exterior of the building?

DOUGLAS OKUN: Yes.

CONSTANTINE ALEXANDER: So the light will come just in the ends?

DOUGLAS OKUN: And along the top.

CONSTANTINE ALEXANDER: Oh, yes.

DOUGLAS OKUN: Along the top.

CONSTANTINE ALEXANDER: I'm sorry.  
Of course.

DOUGLAS OKUN: We felt that if we  
did too much glass it would be unusable.

CONSTANTINE ALEXANDER: And also  
you would have impact on the privacy of  
your neighbors across the street. So if  
you listen to or the Wells Street case you  
might be wise in doing what you're doing.

DOUGLAS OKUN: Okay.

CONSTANTINE ALEXANDER: Well, let  
me -- I see no one in the audience. I  
assume, Miss, you're here for this case.

FEMALE AUDIENCE MEMBER: No.

CONSTANTINE ALEXANDER: No.

The Chair will note that there's no  
one in the audience here who cares to  
speak in the matter. We don't have  
anything in the file of a written sort  
either in support or opposition.

Let me just frame the issues for members of the Board. This is my personal view. There are certain things that recur from this Board many times or have a potential for reoccurring, roof decks. And we generally have adopted a policy which is not universally followed by any means, about whether we sort of predispose in favor or predispose against. It seems to me one policy, at least since I've been on the Board, we've never sort of formulated or give some thought to the notion of enclosing decks on three deckers when the enclosure is on the street side. When you're facing the street. And of course by doing this in effect you're increasing the physical presence of the building. Physically intrudes to some extent on the neighbors. And I, you know, I think we have to think in terms of if we do it in this case, we're not bound by future cases, but we should think about

where we should be giving guidance to the members of the community, to at least what our initial thinking is. Again, along the lines what we've done for roof decks. That's just one person's thought. I don't know if people feel that way, and we can decide the case as it is and we can wait for the next case to come along which it will.

KATHERINE JAFFE: May I speak?

CONSTANTINE ALEXANDER: Oh, by all means.

KATHERINE JAFFE: I did go around to the neighbors and checked in with them and asked them and nobody had any objections.

CONSTANTINE ALEXANDER: I went down the street, and I thought, but I may be wrong, Mr. Okun said differently, I thought there were other three deckers on the street that are open porches.

DOUGLAS OKUN: There are.

CONSTANTINE ALEXANDER: That gets to my point. If we allow you to do it, are we going to hear next week or next month the person down the street want to do that. And on and on and on. And all of a sudden the street starts to close in a little bit, not dramatically, but a little bit. And we have to think about that. We have to think beyond the contours of this case.

EUGENE JAFFE: I'd like to make an observation.

CONSTANTINE ALEXANDER: By all means.

EUGENE JAFFE: If you look at the buildings on the street, a number of them have enclosed their front porches. In fact, the one right across the street from us. The one adjacent. So we're not setting a new precedent.

CONSTANTINE ALEXANDER: Well, the only point is it's possible. I don't know

the facts. It's possible they may have been able to do it as a matter of right. In other words, they didn't have this FAR issue that you have. In which case they wouldn't have to come and waste their night sitting before this Board.

Possibly. I don't know the facts and circumstances. And maybe they got that relief 30 years ago from a different Board or 15 years ago.

EUGENE JAFFE: The building across the street was three years ago, four years ago.

CONSTANTINE ALEXANDER: Well, I don't think it came before our Board. But in any event. I've spoken maybe too long. I throw it open to the other members of the Board for their observations and questions.

BRENDAN SULLIVAN: Well, somebody who owns a three decker, I very meticulously restore the porches, because



I think that --

CONSTANTINE ALEXANDER: Did you enclose them?

BRENDAN SULLIVAN: I would never enclose them. I restored the porches, railings, what have you, because I think that's the way it's supposed to be and that's the way it looks. I have -- I'd be less of a problem if you were to enclose the rear porches. But as far as the street is concerned, it just brings the entire massing, the entire wall of the house right out to the front of the building, right out to the sidewalk. And yes, there are some, you know, you go up and down any of those streets and you'll see an occasional two or three or four or five or six, the majority obviously have open porches, and I just shutter when I see that people are enclosing the porches. So I, I could not support it at all. I just -- it brings the massing of the house

right out. It's just the wall of the house.

CONSTANTINE ALEXANDER: Doug?

DOUGLAS MYERS: I certainly was thinking along the same lines. And I was struck by the fact that the -- I don't know, I'm not an architect, I don't know how to define this rounded part.

BRENDAN SULLIVAN: A bay.

DOUGLAS MYERS: A three story bay. It would seem that when the enclosure is completed, that it's going to protrude possibly beyond the bay.

DOUGLAS OKUN: It won't protrude any more than it does currently.

DOUGLAS MYERS: Then -- I understand. But nonetheless, the massing will emphasize the fact that there seems to be the protrusion is there. That was simply my thought. And I'm listening to the fellow Board members, but I'm inclined to go in that direction.

CONSTANTINE ALEXANDER: Tim?

TIM HUGHES: I have to agree with the fellow panel members. I think it totally changes the character of what a three decker is and should be, and it brings the massing way too forward. If you were looking for extra space, I think you should go out the back with it. But the way that cuts into the bay, which it does, but it takes one-third of that bay away by expanding and closing those kind of porches. I can't see it. I can't support it.

CONSTANTINE ALEXANDER: Tad?

TAD HEUER: I feel the same way.

CONSTANTINE ALEXANDER: For the record, I concur with my fellow Board members which is why I raised the issue in the first place.

Well, let's take it to a motion.  
Ready for a motion?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: The Chair moves that a variance be granted to the petitioners to enclose -- there's no need to get relief from us to rebuild the porches, but to enclose the porches as shown on plans -- well, enclose the second and third floor porches of this structure on the grounds that a literal enforcement of the provisions of the ordinance would involve a substantial hardship.

The hardship being that the petitioner would not have the ability to increase the living space in the structure.

That the hardship is owing to the circumstances relating to the structure, needs, the shape of the structure is a non-conforming structure.

And that relief may be granted without substantial detriment to the public good.

The motion to grant the variance

would be in accordance with the plans or the drawing, singular, submitted by the petitioner and initialed by the Chair.

All those in favor of granting the variance on the basis so proposed, say "Aye."

(No response.)

CONSTANTINE ALEXANDER: None in favor. The motion doesn't carry. Sorry, there's no relief. Can't enclose the porches. You can rebuild them. I encourage you to do that.

DOUGLAS OKUN: Well, we have to rebuild them because they are -- they require that.

EUGENE JAFFE: I'm sorry, but what this is going to mean is every X number of years we're going to have rotted wooden structure again and we're going to have to rebuild it again. So it does create a hardship.

CONSTANTINE ALEXANDER: It's the

nature of owning a house with a porch or a deck.

DOUGLAS OKUN: Okay. Thank you.

CONSTANTINE ALEXANDER: Sorry. We made our decision.

(Whereupon, a discussion was held off the record.)

(9:55 p.m. Case No. 9796 Reconvened.)

CONSTANTINE ALEXANDER: Okay. The case has been recessed, it's going to be reconvened. And when you last left us we were talking about the possibility of continuing the case. Continuing the case to a future date to allow further communications between you and the neighbors to see if some sort of acceptable compromise can be reached. And if not, we would act on the merits of the case however you presented it to us. You can also come back with revised plans that still don't meet neighborhood support, but that would be your choice.

So, are you amendable to -- and our thinking is because of the fact as we mentioned, it's a case heard, we have to

have all five of us here for that. And because Mr. Myers is only available for June 25th until September, we would propose subject to your approval, to continue the case to June 25th, two weeks from now. You've worked out an arrangement -- you can further continue the case or we can decide to continue it, but at least it would give you a shot, everybody a shot at getting a definitive answer before the summer's over.

JOE BURKE: So June 25th not August 13th?

CONSTANTINE ALEXANDER: That's right. We cannot do August -- well, we could do August 13th. Let me be very clear because it's also relevant to the continuance.

JOE BURKE: Yeah.

CONSTANTINE ALEXANDER: Because it's a case heard, and you need all five of us sitting here, there's five that are



here. If we continue the case to August 13th, Mr. Myers can't be here. As a result, there would only be four members sitting. To grant relief, petitioner relief, they need four votes. So if there's five of us here, they can get one to center and still get the motion passed. If there's only for four of us here, they need a unanimous vote of the Board. So, from the petitioner's point of view, petitioners would often prefer to have five members rather than four. And we're giving them the opportunity to have five members. If on June 25th, whatever reason you want to continue the case to August, we'll continue to August. But then you'll be sitting with four members of the Board. And consequences that I've just laid out would be the case.

MALE AUDIENCE MEMBER: And the time would be at the same time?

CONSTANTINE ALEXANDER: Seven

o'clock.

MALE AUDIENCE MEMBER: Seven?

CONSTANTINE ALEXANDER: There would be other cases at seven.

MALE AUDIENCE MEMBER: So roughly like now?

CONSTANTINE ALEXANDER: Yes, it would be earlier than ten o'clock. We'll get you out of here before ten o'clock.

So, I'm going to make a motion, that's the 25th is sufficient?

TERRY DUMAS: That's fine.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven p.m. on June 25th on the condition that the petitioner sign a waiver of the time for reaching a decision, and that waiver has been submitted. And on the further condition that the sign that advertises this hearing, cross out today's date and write in by magic marker June 25th so the neighborhood knows when the

case is going to be reheard.

TERRY DUMAS: And we put June 25th, do we have to indicate a time?

CONSTANTINE ALEXANDER: Are there times on the sign?

SEAN O'GRADY: There's times on the sign.

CONSTANTINE ALEXANDER: Put seven o'clock.

TERRY DUMAS: Seven p.m., okay.

CONSTANTINE ALEXANDER: All those in favor of continuing the case on that basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. The case is continued to June 25th.

(Alexander, Hughes, Sullivan, Myers, Heuer.)

(The meeting adjourned at 10:00 p.m.)

**C E R T I F I C A T E**

**COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a  
Certified Shorthand Reporter, the  
undersigned Notary Public, certify that:

I am not related to any of the  
parties in this matter by blood or  
marriage and that I am in no way  
interested in the outcome of this matter.

I further certify that the testimony  
hereinbefore set forth is a true and  
accurate transcription of my stenographic  
notes to the best of my knowledge, skill  
and ability.

**IN WITNESS WHEREOF**, I have hereunto  
set my hand this 22nd day of June 2009.

---

Catherine L. Zelinski  
Notary Public  
Certified Shorthand Reporter  
License No. 147703

My Commission Expires:  
April 23, 2015

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